



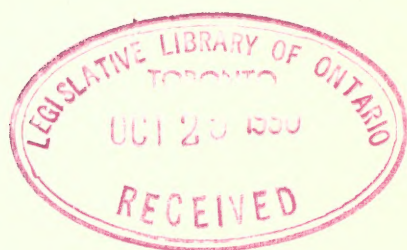




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INDEX

SECOND SESSION  
THIRTY-FOURTH PARLIAMENT  
**LEGISLATIVE ASSEMBLY  
OF ONTARIO**

SECOND SESSION  
THIRTY-FOURTH PARLIAMENT

---

**BILLS  
AS INTRODUCED IN THE HOUSE  
TOGETHER WITH  
REPRINTS AND THIRD READINGS**

---

**SESSION**

April 25 to July 26, 1989  
October 10 to December 20, 1989  
and  
March 19 to June 28, 1990





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# Bill 1

## **An Act to amend the Ontario Municipal Board Act**

**The Hon. I. Scott**  
*Attorney General*

---

*1st Reading*      April 25th, 1989  
*2nd Reading*  
*3rd Reading*  
*Royal Assent*

#### EXPLANATORY NOTE

The purpose of the Bill is to convert the position of the secretary of the Board into a public service position. At present, the secretary is appointed by the Lieutenant Governor in Council and serves at pleasure.



**Bill 1****1989**

**An Act to amend the  
Ontario Municipal Board Act**

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

**1.** Subsection 27 (1) of the *Ontario Municipal Board Act*, being chapter 347 of the Revised Statutes of Ontario, 1980, is repealed and the following substituted therefor:

(1) There shall be a secretary of the Board who shall be appointed under the *Public Service Act*.

Secretary  
R.S.O. 1980,  
c. 418

**2.** This Act comes into force on the day it receives Royal Assent.

Commence-  
ment

**3.** The short title of this Act is the *Ontario Municipal Board Amendment Act, 1989*.

Short title



# Bill 1

*(Chapter 32  
Statutes of Ontario, 1989)*

## **An Act to amend the Ontario Municipal Board Act**

The Hon. I. Scott  
*Attorney General*

---

<i>1st Reading</i>	April 25th, 1989
<i>2nd Reading</i>	June 21st, 1989
<i>3rd Reading</i>	July 13th, 1989
<i>Royal Assent</i>	July 13th, 1989

---





**Bill 1**

**1989**

**An Act to amend the  
Ontario Municipal Board Act**

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(1) There shall be a secretary of the Board who shall be appointed under the *Public Service Act*.

Secretary  
R.S.O. 1980,  
c. 418

**2.** This Act comes into force on the day it receives Royal Assent.

Commence-  
ment

**3.** The short title of this Act is the *Ontario Municipal Board Amendment Act, 1989*.

Short title



# Bill 2

## **An Act to amend the Courts of Justice Act, 1984**

**The Hon. I. Scott**  
*Attorney General*

---

<i>1st Reading</i>	May 1st, 1989
<i>2nd Reading</i>	
<i>3rd Reading</i>	
<i>Royal Assent</i>	

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## EXPLANATORY NOTES

The Bill substantially changes the structure of the Ontario courts.

The present structure of the courts is as follows:

1. The Supreme Court of Ontario has two branches, the Court of Appeal and the High Court of Justice. The Supreme Court is a superior court with civil and criminal jurisdiction whose judges are appointed by the federal government.
2. The District Court of Ontario has both civil and criminal jurisdiction but is not a superior court. Its civil jurisdiction is limited by the *Courts of Justice Act, 1984* to claims of less than \$25,000 unless both parties agree to let it hear a claim for a greater amount. Its judges are appointed by the federal government.
3. The Divisional Court is a division of the High Court that hears specified appeals assigned to it by statute and applications for judicial review of a decision of a board or agency. The judges of the High Court are the judges of the Divisional Court.
4. There are four courts presided over by provincial judges, the Provincial Court (Civil Division), the Provincial Court (Family Division), the Provincial Court (Criminal Division) and the Provincial Offences Court. The Provincial Offences Court is usually presided over by justices of the peace and the Provincial Court (Civil Division) is often presided over by part-time deputy judges.
5. The Unified Family Court is a specialized court for family law proceedings in The Regional Municipality of Hamilton-Wentworth. Its judges are appointed by the federal government and are also given the power of provincial judges for their work in the court.

The structure of the Ontario courts proposed by the Bill is as follows:

1. The Court of Appeal will be continued as the final court of appeal for the Province and will be separated from the High Court.
2. There will be a new court, to be called the Ontario Court of Justice, composed of two divisions, the General Division and the Provincial Division.
3. The Ontario Court (General Division) will combine the jurisdiction now exercised by the High Court, the District Court and the surrogate courts. The existing judges of those courts will all become judges of the Ontario Court (General Division). The General Division will be a superior court.
4. The Divisional Court will be continued with no change in its jurisdiction as a branch of the Ontario Court (General Division). All of the judges of the General Division will be judges of the Divisional Court.
5. The Small Claims Court will also be a branch of the Ontario Court (General Division). The monetary limit of the Small Claims Court will be prescribed by regulation. All of the judges of the General Division will be judges of the Small Claims Court. In addition, provincial judges who were formerly in the Provincial Court (Civil Division) will preside over matters in the Small Claims Court and deputy judges will be appointed for three-year renewable terms to preside over matters in the Small Claims Court that do not exceed a prescribed amount.
6. The Ontario Court (Provincial Division) combines the jurisdiction now exercised by the Provincial Court (Criminal Division), the Provincial Court (Family



Division) and the Provincial Offences Court. The existing judges of those courts will all become judges of the Ontario Court (Provincial Division).

7. The Unified Family Court is established as a superior court but is otherwise not changed.

A judge of the General Division will be appointed as Chief Judge of the Ontario Court to manage judicial resources for the General Division of the Ontario Court of Justice. A provincial judge will be appointed as Chief Judge of the Ontario Court (Provincial Division) to manage judicial resources for the Provincial Division.

The Province will be divided into regions for judicial purposes, with the number and area of the regions to be prescribed by regulation. A judge of the General Division will be appointed as regional senior judge of the General Division for each region to manage judicial resources for the General Division in the region, subject to the authority of the Chief Judge of the Ontario Court. A provincial judge will be appointed as regional senior judge of the Provincial Division for each region to manage judicial resources for the Provincial Division in the region, subject to the authority of the Chief Judge of the Ontario Court (Provincial Division).

The Chief Judge of the Ontario Court (Provincial Division) and the regional senior judges of the Provincial Division will be appointed to their administrative positions for five-year terms, after which they will return to being provincial judges.

The Ontario Courts Advisory Council will be replaced by the Ontario Courts Management Committee. In addition, each region will have a Regional Courts Management Committee consisting of the regional senior judges, the regional director of courts administration, the regional director of Crown attorneys and representatives of the regional bar and the public.

The Bill will also restructure rule-making for the courts. Part V of the existing Act establishes the Rules Committee of the Supreme and District Courts and provides for the making of rules of practice and procedure for civil proceedings in those courts. The Bill will establish three separate rules committees, the Civil Rules Committee, the Family Rules Committee and the Criminal Rules Committee, each to make rules in their respective areas.

Some of the other changes to the Act are as follows:

1. The number of judges of the Court of Appeal will be fixed by regulation rather than by statute.
2. Every judge of the General Division must be assigned to a particular region and there must be at least one judge of the General Division assigned to each county or district.
3. The judges of the Ontario Court of Justice are required to meet at least once each year and the judges of the Ontario Court in each region are required to meet at least once in each year to consider the Act, the rules and the administration of justice.
4. A limit on costs in the Small Claims Court is set at 15 per cent of the amount claimed unless the court considers it necessary in the interests of justice to penalize a person for unreasonable behaviour in the proceeding.
5. The Act now provides that the Province will pay \$3,000 each year to federally appointed judges. Although these payments will continue for judges appointed before the Bill comes into force, no payments will be made to future appointees.
6. There is no provision for the appointment of new masters.

7. The Lieutenant Governor in Council will be permitted to prescribe the form of the gown worn in court by all judges appointed after the Bill comes into force.
8. All Ontario Court and Unified Family Court judges may be addressed as "Your Honour", subject to the right of former High Court judges to elect to be addressed according to the old practice.
9. Errors in the Act are corrected with respect to jury trials (section 121) and setting off mutual debts (section 124). The medical examination provision of the Act (section 118) is amended to permit a court to order an examination by a registered psychologist.
10. The salaries of former Chief Judges, Associate Chief Judges and senior judges of the provincial courts and of the Senior Master are protected and they are permitted to retain their titles.
11. The transitional provisions and complementary amendments in the Act are amended to ensure the continuation of existing court proceedings in the new courts and to deem references to courts in other statutes to be references to the new courts.

The Bill is accompanied by the *Court Reform Statute Law Amendment Act, 1989*, which repeals the *Sheriffs Act* and makes consequential amendments to 52 other statutes.

**Bill 2****1989****An Act to amend the Courts of Justice Act, 1984**

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

**1.** Section 1 of the *Courts of Justice Act, 1984*, being chapter 11, is repealed and the following substituted therefor:

**1.** In this Act,

Definitions

“action” means a civil proceeding that is not an application and includes a proceeding commenced by,

- (a) claim,
- (b) statement of claim,
- (c) notice of action,
- (d) counterclaim,
- (e) crossclaim,
- (f) third or subsequent party claim, or
- (g) divorce petition or counterpetition;

“application” means a civil proceeding that is commenced by notice of application or by application;

“defendant” means a person against whom an action is commenced;

“hearing” includes a trial;

“motion” means a motion in a proceeding or an intended proceeding;

“order” includes a judgment or decree;

“plaintiff” means a person who commences an action;

“region” means a region prescribed under section 92a. 1984, c. 11, s. 1, *amended*.

**2. Parts I and II, Part III, as amended by the Statutes of Ontario, 1984, chapter 55, section 213, 1984, chapter 64, section 1, 1985, chapter 1, section 4, 1986, chapter 7, section 15 and 1987, chapter 1, sections 1, 2 and 3, Part IV, as amended by the Statutes of Ontario, 1984, chapter 55, section 213, 1984, chapter 64, sections 2, 3, 4 and 5 and 1987, chapter 1, sections 4, 5 and 6 and Part V, as amended by the Statutes of Ontario, 1984, chapter 64, sections 6 and 7, of the said Act are repealed and the following substituted therefor:**

## PART I

### COURT OF APPEAL FOR ONTARIO

Court of  
Appeal

**2.—(1)** The branch of the Supreme Court of Ontario named the Court of Appeal for Ontario is continued as a superior court of record named the Court of Appeal for Ontario.

Idem

(2) In exercising its jurisdiction, the Court of Appeal has all the power and authority historically exercised by courts of common law and equity in England and Ontario. 1984, c. 11, s. 2, *amended*.

Composition  
of court

**3.—(1)** The Court of Appeal shall consist of,

- (a) the Chief Justice of Ontario, who shall be president of the court;
- (b) the Associate Chief Justice of Ontario; and
- (c) such number of other judges as is fixed under subsection (2), to be called justices of appeal. 1984, c. 11, s. 3 (1), *amended*.

Number of  
judges

(2) The Lieutenant Governor in Council may by regulation fix the number of judges of the Court of Appeal who are in addition to the Chief Justice and the Associate Chief Justice.

Idem

(3) A reduction in the number of judges does not affect appointments existing at the time of the reduction. *New*.

Additional  
judges

(4) There shall be such additional offices of judge of the Court of Appeal as are from time to time required, to be held by Chief Justices of Ontario and Associate Chief Justices of



Ontario who have elected under the *Judges Act* (Canada) to perform only the duties of a judge of the Court of Appeal. 1984, c. 11, s. 6 (1), *amended*. R.S.C. 1985, c. J-1

(5) There shall be such additional offices of supernumerary judge of the Court of Appeal as are from time to time required, to be held by judges of the Court of Appeal who have elected under the *Judges Act* (Canada) to hold office only as a supernumerary judge of the court. 1984, c. 11, s. 6 (3), *amended*. Super-numerary judges

4.—(1) The Chief Justice of Ontario, with the concurrence of the Chief Judge of the Ontario Court, may assign a judge of the Ontario Court (General Division) to perform the work of a judge of the Court of Appeal. 1984, c. 11, s. 9 (2), *amended*. Assignment of judges from General Division

(2) A judge of the General Division is, by virtue of his or her office, a judge of the Court of Appeal and has all the jurisdiction, power and authority of a judge of the Court of Appeal. 1984, c. 11, s. 8, *amended*. General Division judges

5.—(1) The Chief Justice of Ontario has general supervision and direction over the sittings of the Court of Appeal and the assignment of the judicial duties of the court. 1984, c. 11, s. 18 (5). Powers and duties of Chief Justice

(2) If the Chief Justice of Ontario is absent from Ontario or is for any reason unable to act, his or her powers and duties shall be exercised and performed by the Associate Chief Justice of Ontario. Absence of Chief Justice

(3) If the Chief Justice of Ontario and the Associate Chief Justice of Ontario are both absent from Ontario or for any reason unable to act, the powers and duties of the Chief Justice shall be exercised and performed by a judge of the Court of Appeal designated by the Chief Justice or Associate Chief Justice. 1984, c. 11, s. 3 (2), *amended*. Absence of Associate Chief Justice

6.—(1) An appeal lies to the Court of Appeal from, Court of Appeal jurisdiction

(a) an order of the Divisional Court, on a question that is not a question of fact alone, with leave as provided in the rules of court;

(b) a final order of a judge of the Ontario Court (General Division), except an order referred to in clause 18 (1) (a);

- (c) a certificate of assessment of costs issued in a proceeding in the Court of Appeal, on an issue in respect of which an objection was served under the rules of court. 1984, c. 11, s. 17 (1), *amended*.

Combining of  
appeals from  
other courts

(2) The Court of Appeal has jurisdiction to hear and determine an appeal that lies to the Divisional Court or the Ontario Court (General Division) if an appeal in the same proceeding lies to and is taken to the Court of Appeal.

Idem

(3) The Court of Appeal may, on motion, transfer an appeal that has already been commenced in the Divisional Court or the Ontario Court (General Division) to the Court of Appeal for the purpose of subsection (2). 1984, c. 11, s. 17 (2), *amended*.

Composition  
of court for  
hearings

7.—(1) A proceeding in the Court of Appeal shall be heard and determined by not fewer than three judges sitting together, and always by an uneven number of judges. 1984, c. 11, s. 18 (1), *amended*.

Idem,  
motions

(2) A motion in the Court of Appeal and an appeal under clause 6 (1) (c) shall be heard and determined by one judge.

Idem

(3) Subsection (2) does not apply to a motion for leave to appeal, a motion to quash an appeal or any other motion that is specified by the rules of court.

Idem

(4) A judge assigned to hear and determine a motion may adjourn the motion to a panel of the Court of Appeal.

Idem

(5) A panel of the Court of Appeal may, on motion, set aside or vary the decision of a judge who hears and determines a motion. 1984, c. 11, s. 18 (3), *amended*.

References to  
Court of  
Appeal

8.—(1) The Lieutenant Governor in Council may refer any question to the Court of Appeal for hearing and consideration.

Opinion of  
court

(2) The court shall certify its opinion to the Lieutenant Governor in Council, accompanied by a statement of the reasons for it, and any judge who differs from the opinion may certify his or her opinion and reasons in the same manner.

Submissions  
by Attorney  
General

(3) On the hearing of the question, the Attorney General of Ontario is entitled to make submissions to the court.

Idem

(4) The Attorney General of Canada shall be notified and is entitled to make submissions to the court if the question relates to the constitutional validity or constitutional applica-

bility of an Act, or of a regulation or by-law made under an Act, of the Parliament of Canada or the Legislature.

(5) The court may direct that any person interested, or any one or more persons as representatives of a class of persons interested, be notified of the hearing and be entitled to make submissions to the court. Notice

(6) If an interest affected is not represented by counsel, the court may request counsel to argue on behalf of the interest and the reasonable expenses of counsel shall be paid by the Treasurer of Ontario. Appointment of counsel

(7) The opinion of the court shall be deemed to be a judgment of the court and an appeal lies from it as from a judgment in an action. 1984, c. 11, s. 19. Appeal

## PART II

### ONTARIO COURT OF JUSTICE

**9.—**(1) The Ontario Court of Justice is established. Ontario Court

(2) The Ontario Court shall consist of two divisions, the General Division and the Provincial Division. *New.* Divisions

#### ONTARIO COURT (GENERAL DIVISION)

**10.—**(1) The branch of the Supreme Court of Ontario named the High Court of Justice for Ontario, the District Court of Ontario and the surrogate courts are amalgamated and continued as a superior court of record named the Ontario Court (General Division). General Division

(2) The General Division has all the jurisdiction, power and authority historically exercised by courts of common law and equity in England and Ontario. 1984, c. 11, s. 2 (1), *amended.* Idem

**11.—**(1) The General Division shall consist of, Composition of General Division

- (a) the Chief Judge of the Ontario Court, who shall be president of the Ontario Court;
- (b) a regional senior judge of the General Division for each region;
- (c) a senior judge of the General Division for the Unified Family Court; and



- (d) such number of judges of the General Division as is fixed under clause 53 (1) (a). 1984, c. 11, s. 4 (1), *amended*.

Additional  
judges

(2) There shall be such additional offices of judge of the General Division as are from time to time required, to be held by Chief Judges of the Ontario Court and regional senior judges of the General Division who have elected under the *Judges Act* (Canada) to perform only the duties of a judge of the Ontario Court. 1984, c. 11, s. 6 (1), *amended*.

R.S.C. 1985,  
c. J-1

Super-  
numerary  
judges

(3) There shall be such additional offices of supernumerary judge of the General Division as are from time to time required, to be held by judges of the General Division who have elected under the *Judges Act* (Canada) to hold office only as a supernumerary judge of that division. 1984, c. 11, s. 6 (3), *amended*.

Assignment  
of judges  
from Court  
of Appeal

**12.**—(1) The Chief Justice of Ontario, with the concurrence of the Chief Judge of the Ontario Court, may assign a judge of the Court of Appeal to perform the work of a judge of the General Division. 1984, c. 11, s. 9 (1), *amended*.

Court of  
Appeal  
judges

(2) A judge of the Court of Appeal is, by virtue of his or her office, a judge of the General Division and has all the jurisdiction, power and authority of a judge of the General Division. 1984, c. 11, s. 8, *amended*.

Powers and  
duties of  
Chief Judge  
of Ontario  
Court

**13.**—(1) The Chief Judge of the Ontario Court shall direct and supervise the sittings of the Ontario Court (General Division) and the assignment of its judicial duties.

Regional  
senior  
judges,  
General  
Division

(2) A regional senior judge of the General Division shall, subject to the authority of the Chief Judge of the Ontario Court, exercise the powers and perform the duties of the Chief Judge in respect of the General Division in his or her region.

Delegation

(3) A regional senior judge of the General Division may delegate to a judge of the General Division in his or her region the authority to exercise specified functions. *New*.

Absence of  
Chief Judge  
of Ontario  
Court

(4) If the Chief Judge of the Ontario Court is absent from Ontario or is for any reason unable to act, his or her powers and duties shall be exercised and performed by a regional senior judge of the General Division designated by the Chief Judge of the Ontario Court. 1984, c. 11, s. 4 (3), *amended*.

Absence of  
regional  
senior judge  
of General  
Division

(5) The powers and duties of a regional senior judge of the General Division who is absent from Ontario or is for any rea-



son unable to act shall be exercised and performed by a judge of the General Division designated by the Chief Judge of the Ontario Court. *New.*

**14.**—(1) The Chief Judge of the Ontario Court shall assign every judge of the General Division to a region. Judges assigned to regions

(2) There shall be at least one judge of the General Division assigned to each county or district. At least one judge in each county

(3) No judge of the General Division who was a judge of the High Court of Justice or the District Court of Ontario before this section comes into force shall be assigned without his or her consent to a region other than the region in which he or she resided immediately before this section comes into force. High Court and District Court judges

(4) Subsections (1) to (3) do not prevent the temporary assignment of a judge to a location anywhere in Ontario. *New.* Idem

**15.** A proceeding in the General Division shall be heard and determined by one judge of the General Division. 1984, c. 11, s. 14 (1), *amended.* Composition of court for hearings

**16.** An appeal lies to the General Division from, Appeals to General Division

(a) an interlocutory order of a master;

(b) a certificate of assessment of costs issued in a proceeding in the General Division, on an issue in respect of which an objection was served under the rules of court. 1984, c. 11, s. 13 (2), *amended.*

#### DIVISIONAL COURT

**17.**—(1) There shall be a branch of the General Division to be known as the Divisional Court consisting of the Chief Judge of the Ontario Court who shall be president of the court and such other judges of the General Division as the Chief Judge designates from time to time. Divisional Court

(2) Every judge of the General Division is also a judge of the Divisional Court. 1984, c. 11, s. 5, *amended.* Jurisdiction of judges

**18.**—(1) An appeal lies to the Divisional Court from, Divisional Court jurisdiction

(a) a final order of a judge of the General Division,

- (i) for a single payment of not more than \$25,000, exclusive of costs,
  - (ii) for periodic payments that amount to not more than \$25,000, exclusive of costs, in the twelve months commencing on the date the first payment is due under the order,
  - (iii) dismissing a claim for an amount that is not more than the amount set out in subclause (i) or (ii), or
  - (iv) dismissing a claim for an amount that is more than the amount set out in subclause (i) or (ii) and in respect of which the judge indicates that if the claim had been allowed the amount awarded would have been not more than the amount set out in subclause (i) or (ii);
- (b) an interlocutory order of a judge of the General Division, with leave as provided in the rules of court;
  - (c) a final order of a master. 1984, c. 11, s. 15 (1), *amended*.

Combining of  
appeals from  
General  
Division

(2) The Divisional Court has jurisdiction to hear and determine an appeal that lies to the General Division if an appeal in the same proceeding lies to and is taken to the Divisional Court.

Idem

(3) The Divisional Court may, on motion, transfer an appeal that has already been commenced in the General Division to the Divisional Court for the purpose of subsection (2). 1984, c. 11, s. 15 (2), *amended*.

Appeal from  
interlocutory  
orders

(4) No appeal lies from an interlocutory order of a judge of the General Division made on an appeal from an interlocutory order of the Provincial Division. 1984, c. 11, s. 36 (4), *amended*.

Appeals  
heard in  
regions

**19.**—(1) An appeal to the Divisional Court shall be heard in the region in which the order appealed from was made, unless the parties agree otherwise.

Other  
proceedings  
in any region

(2) Any other proceeding in the Divisional Court may be brought in any region. *New*.

Composition  
of court for  
hearings

**20.**—(1) A proceeding in the Divisional Court shall be heard and determined by three judges sitting together.

(2) A proceeding in the Divisional Court may be heard and determined by one judge where the proceeding, Idem

- (a) is an appeal under clause 18 (1) (c);
- (b) is an appeal under section 31 from a provincial judge or a deputy judge presiding over the Small Claims Court; or
- (c) is in a matter that the Chief Judge of the Ontario Court or a judge designated by the Chief Judge is satisfied, from the nature of the issues involved and the necessity for expedition, can and ought to be heard and determined by one judge.

(3) A motion in the Divisional Court shall be heard and determined by one judge, unless otherwise provided by the rules of court. Idem,  
motions

(4) A judge assigned to hear and determine a motion may adjourn it to a panel of the Divisional Court. Idem

(5) A panel of the Divisional Court may, on motion, set aside or vary the decision of a judge who hears and determines a motion. Idem  
1984, c. 11, s. 16, *amended*.

#### SMALL CLAIMS COURT

**21.** The Provincial Court (Civil Division) is continued as a branch of the General Division to be known as the Small Claims Court. *New.* Small Claims  
Court

**22.—(1)** The Small Claims Court shall consist of, Composition  
of Small  
Claims Court

- (a) every judge of the General Division;
- (b) every provincial judge who was assigned to the Provincial Court (Civil Division) before this section comes into force; and
- (c) the deputy judges appointed under subsection (2).

(2) A regional senior judge of the General Division may, with the approval of the Attorney General, appoint a barrister and solicitor to act as a deputy judge of the Small Claims Court for a term of three years. Deputy  
judges

(3) A regional senior judge of the General Division may renew the appointment of a deputy judge for one or more three-year terms. Idem  
1984, c. 11, s. 77 (2, 3), *amended*.



## Jurisdiction

**23.—(1) The Small Claims Court,**

- (a) has jurisdiction in any action for the payment of money where the amount claimed does not exceed the prescribed amount exclusive of interest and costs; and
- (b) has jurisdiction in any action for the recovery of possession of personal property where the value of the property does not exceed the prescribed amount. 1984, c. 11, s. 78 (1), *amended*.

Transfer  
from General  
Division

(2) An action in the General Division may be transferred to the Small Claims Court by the local registrar of the General Division on requisition with the consent of all parties filed before the trial commences if,

- (a) the only claim is for the payment of money or the recovery of possession of personal property; and
- (b) the claim is within the jurisdiction of the Small Claims Court.

## Idem

(3) An action transferred to the Small Claims Court shall be titled and continued as if it had been commenced in that court. 1984, c. 11, s. 84, *amended*.

Composition  
of court for  
hearings

**24.—(1)** A proceeding in the Small Claims Court shall be heard and determined by one judge or deputy judge.

Where  
deputy judge  
not to  
preside

(2) A deputy judge shall not preside over the court in an action,

- (a) for the payment of money in excess of the prescribed amount; or
- (b) for the recovery of possession of personal property exceeding the prescribed amount in value. 1984, c. 11, s. 77 (2, 3), *amended*.

Summary  
hearings

**25.** The Small Claims Court shall hear and determine in a summary way all questions of law and fact and may make such order as is considered just and agreeable to good conscience. 1984, c. 11, s. 78 (3), *amended*.

## Representation

**26.** A party may be represented in a proceeding in the Small Claims Court by counsel or an agent but the court may exclude from a hearing anyone, other than a barrister and solicitor qualified to practise in Ontario, appearing as an agent on behalf of a party if it finds that such person is not compe-

tent properly to represent the party or does not understand and comply at the hearing with the duties and responsibilities of an advocate. 1984, c. 11, s. 79, *amended*.

**27.**—(1) Subject to subsections (3) and (4), the Small Claims Court may admit as evidence at a hearing and act upon any oral testimony and any document or other thing so long as the evidence is relevant to the subject-matter of the proceeding, but the court may exclude anything unduly repetitious. Evidence

(2) Subsection (1) applies whether or not the evidence is given or proven under oath or affirmation or admissible as evidence in any other court. Idem

(3) Nothing is admissible in evidence at a hearing, Idem

(a) that would be inadmissible by reason of any privilege under the law of evidence; or

(b) that is inadmissible by any Act.

(4) Nothing in subsection (1) overrides the provisions of any Act expressly limiting the extent to or purposes for which any oral testimony, documents or things may be admitted or used in evidence in any proceeding. Conflicts

(5) A copy of a document or any other thing may be admitted as evidence at a hearing if the presiding judge is satisfied as to its authenticity. 1984, c. 11, s. 80, *amended*. Copies

**28.** The Small Claims Court may order the times and the proportions in which money payable under an order of the court shall be paid. 1984, c. 11, s. 81, *amended*. Instalment orders

**29.** An award of costs in the Small Claims Court, other than disbursements, shall not exceed 15 per cent of the amount claimed or the value of the property sought to be recovered unless the court considers it necessary in the interests of justice to penalize a party, counsel or agent for unreasonable behaviour in the proceeding. *New*. Limit on costs

**30.** Orders of the Small Claims Court shall be directed to a bailiff appointed under subsection 32 (1) for enforcement, unless otherwise provided by the rules of court. 1984, c. 11, s. 82, *amended*. Enforcement of orders

**31.** An appeal lies to the Divisional Court from a final order of the Small Claims Court in an action, Appeals



- (a) for the payment of money in excess of \$500, excluding costs; or
- (b) for the recovery of possession of personal property exceeding \$500 in value. 1984, c. 11, s. 83, *amended*.

Clerk and  
bailiff of  
Small Claims  
Court

**32.**—(1) There shall be a clerk and one or more bailiffs for each division of the Small Claims Court who shall be appointed by the Lieutenant Governor in Council.

Idem

(2) With the approval of the Deputy Attorney General or the person designated by the Deputy Attorney General, every clerk and bailiff of the Small Claims Court in a division that is not designated under clause 53 (1) (g) may appoint in writing a deputy who may exercise and perform all the powers and duties of the clerk or bailiff.

Referee

(3) The Lieutenant Governor in Council may appoint a referee for a division of the Small Claims Court. 1984, c. 11, s. 86 (4, 5), *amended*.

#### PROVINCIAL DIVISION

Provincial  
Division

**33.** The Provincial Court (Criminal Division), the Provincial Court (Family Division) and the Provincial Offences Court are amalgamated and continued as a court of record named the Ontario Court (Provincial Division). *New*.

Composition  
of Provincial  
Division

**34.** The Provincial Division shall consist of,

- (a) the Chief Judge of the Provincial Division appointed under subsection 41 (3), who shall be president of the Provincial Division;
- (b) a regional senior judge of the Provincial Division appointed under subsection 41 (4) for each region; and
- (c) such provincial judges as are appointed under subsection 41 (1). *New*.

Powers and  
duties of  
Chief Judge  
of Provincial  
Division

**35.**—(1) The Chief Judge of the Provincial Division shall direct and supervise the sittings of the Provincial Division and the assignment of its judicial duties. 1984, c. 11, s. 63 (5), *amended*.

Regional  
senior  
judges,  
Provincial  
Division

(2) A regional senior judge of the Provincial Division shall, subject to the authority of the Chief Judge of the Provincial

Division, exercise the powers and perform the duties of the Chief Judge of the Provincial Division in his or her region.

(3) A regional senior judge of the Provincial Division may delegate to a judge of the Provincial Division in his or her region the authority to exercise specified functions. *New.* Delegation

(4) If the Chief Judge of the Provincial Division is absent from Ontario or is for any reason unable to act, his or her powers and duties shall be exercised and performed by a regional senior judge of the Provincial Division designated by the Chief Judge of the Provincial Division. 1984, c. 11, s. 63 (7), *amended.* Absence of Chief Judge of Provincial Division

(5) The powers and duties of a regional senior judge of the Provincial Division who is absent from Ontario or is for any reason unable to act shall be exercised and performed by a judge of the Provincial Division designated by the Chief Judge of the Provincial Division. *New.* Absence of regional senior judge of Provincial Division

**36.—**(1) The Chief Judge of the Ontario Court (Provincial Division) shall assign every provincial judge to a region. Judges assigned to regions

(2) Subsection (1) does not prevent the temporary assignment of a provincial judge to a location anywhere in Ontario. *New.* Idem

**37.—**(1) A provincial judge has the power and authority of two or more justices of the peace when sitting in the Provincial Division and shall exercise the powers and perform the duties that any Act of the Parliament of Canada confers on a provincial court judge when sitting in the Provincial Division. 1984, c. 11, s. 67 (1), *amended.* Criminal jurisdiction

(2) The Provincial Division shall perform any function assigned to it by or under the *Provincial Offences Act*, the *Family Law Act*, 1986, the *Children's Law Reform Act*, the *Child and Family Services Act*, 1984 or any other Act. 1984, c. 11, s. 69, s. 75 (1) (a), (k), *amended.* Provincial offences and family jurisdiction  
R.S.O. 1980, c. 400  
1986, c. 4  
R.S.O. 1980, c. 68  
1984, c. 55

(3) The Provincial Division is a youth court for the purposes of the *Young Offenders Act* (Canada). 1984, c. 11, s. 67 (2), s. 75 (1) (b), *amended.* Youth court jurisdiction  
R.S.C. 1985, c. Y-1

**38.—**(1) A proceeding in the Provincial Division shall be heard and determined by one judge of the Provincial Division. 1984, c. 11, s. 66 (2), s. 74 (2), *amended.* Judge to preside

Justice of the  
peace may  
preside  
R.S.O. 1980,  
c. 400

(2) A justice of the peace may preside over the Provincial Division in a proceeding under the *Provincial Offences Act*, 1984, c. 11, s. 68 (2), *amended*.

Appeals

**39.**—(1) If no provision is made concerning an appeal from an order of the Provincial Division, an appeal lies to the General Division.

Exception  
R.S.O. 1985,  
c. C-46

(2) Subsection (1) does not apply to a proceeding under the *Criminal Code* (Canada) or the *Provincial Offences Act*, 1987, c. 1, s. 6, *amended*.

Penalty for  
disturbance  
outside  
courtroom

**40.** Any person who knowingly disturbs or interferes with a proceeding in the Provincial Division without reasonable justification while outside the courtroom is guilty of an offence and on conviction is liable to a fine of not more than \$1,000 or to imprisonment for a term of not more than thirty days, or to both. 1984, c. 11, s. 72, *amended*.

#### PROVINCIAL JUDGES

Appointment  
of provincial  
judges

**41.**—(1) The Lieutenant Governor in Council, on the recommendation of the Attorney General, may appoint such provincial judges as are considered necessary.

Qualifications

(2) No person shall be appointed as a provincial judge unless he or she has been a member of the bar of one of the provinces of Canada for at least ten years. 1984, c. 11, s. 52.

Chief Judge

(3) The Lieutenant Governor in Council may appoint a provincial judge as Chief Judge of the Provincial Division. 1984, c. 11, s. 63 (1), *amended*.

Regional  
senior judges

(4) The Lieutenant Governor in Council may appoint a provincial judge to be the regional senior judge of the Provincial Division for each region.

Term of  
office

(5) The Chief Judge of the Provincial Division and the regional senior judges of the Provincial Division shall hold office for five years.

Idem

(6) If a successor is not appointed within five years, the Chief Judge or a regional senior judge shall continue in office until the successor is appointed, but in no case shall the Chief Judge or regional senior judge hold office for more than seven years.

Former Chief  
Judge, etc.

(7) A Chief Judge or a regional senior judge whose term of office expires under subsection (5) or (6) shall continue to



hold the office of provincial judge and is entitled to an annual salary equal to the greater of,

- (a) the current annual salary of a provincial judge; or
- (b) the annual salary he or she received immediately before ceasing to be Chief Judge or regional senior judge.

(8) A Chief Judge or regional senior judge whose term of office expires under subsection (5) or (6) shall not be reappointed to the same position. *New.*

Chief Judge,  
etc., not to  
be  
reappointed

**42.—**(1) A provincial judge shall devote his or her whole time to the performance of his or her duties as a judge, except as authorized by the Lieutenant Governor in Council.

Other  
employment

(2) Despite subsection (1), a provincial judge who, before the 1st day of January, 1985, had the consent of the Attorney General to act as an arbitrator or conciliator may continue to so act. 1984, c. 11, s. 53, *amended.*

Idem

**43.—**(1) Every provincial judge shall retire upon attaining the age of sixty-five years.

Retirement

(2) Despite subsection (1), a provincial judge appointed as a full-time magistrate, judge of a juvenile and family court or master before the 2nd day of December, 1968 shall retire upon attaining the age of seventy years.

Idem

(3) A judge who has attained the age of sixty-five years may, subject to the annual approval of the Chief Judge of the Provincial Division, continue in office as a full-time or part-time judge until he or she attains the age of seventy years.

Continuation  
of judges in  
office

(4) A judge who has attained the age of seventy years may, subject to the annual approval of the Judicial Council, continue in office as a full-time or part-time judge until he or she has attained the age of seventy-five years.

Idem

(5) A regional senior judge of the Provincial Division who is in office upon attaining the age of sixty-five years may, subject to the annual approval of the Chief Judge of the Provincial Division, continue in that office until he or she has attained the age of seventy years.

Continuation  
of regional  
senior judge  
in office

(6) A regional senior judge of the Provincial Division who is in office upon attaining the age of seventy years may, subject to the annual approval of the Judicial Council, continue

Idem

in that office until he or she has attained the age of seventy-five years.

Continuation  
in office of  
Chief Judge  
of Provincial  
Division

(7) If the Chief Judge of the Provincial Division is in office upon attaining the age for retirement under subsection (1) or (2), he or she may, subject to the annual approval of the Judicial Council, continue in that office until he or she has attained the age of seventy-five years. 1984, c. 11, s. 54, *amended*.

Resignation  
of judge

**44.**—(1) A provincial judge may at any time resign from his or her office by delivering a signed letter of resignation to the Attorney General.

Resignation  
as Chief  
Judge, etc.

(2) A Chief Judge or a regional senior judge may, before the expiry of his or her term of office under subsection 41 (5) or (6), elect to hold the office of a provincial judge only, by delivering a signed letter to that effect to the Attorney General.

Effective  
date

(3) A resignation or election under this section takes effect on the day the letter is delivered to the Attorney General or, if the letter specifies a later day, on that day. 1984, c. 11, s. 55, s. 65, *amended*.

Removal for  
cause

**45.**—(1) A provincial judge may be removed from office before attaining retirement age only if,

- (a) a complaint regarding the judge has been made to the Judicial Council; and
- (b) the removal is recommended by an inquiry held under section 49 on the ground that the judge has become incapacitated or disabled from the due execution of his or her office by reason of,
  - (i) infirmity,
  - (ii) conduct that is incompatible with the execution of his or her office, or
  - (iii) having failed to perform the duties of his or her office.

Order for  
removal

(2) An order removing a provincial judge from office under this section may be made by the Lieutenant Governor on the address of the Legislative Assembly. 1984, c. 11, s. 56, *amended*.



**46.**—(1) The Judicial Council for Provincial Judges is continued as the Ontario Judicial Council and shall be composed of,

Judicial  
Council

- (a) the Chief Justice of Ontario, who shall preside over the Ontario Judicial Council;
- (b) the Associate Chief Justice of Ontario;
- (c) the Chief Judge of the Ontario Court;
- (d) the Chief Judge of the Ontario Court (Provincial Division);
- (e) the Treasurer of The Law Society of Upper Canada; and
- (f) not more than two other persons appointed by the Lieutenant Governor in Council.

(2) A majority of members of the Judicial Council constitutes a quorum and is sufficient for the exercise of all the jurisdiction and powers of the Judicial Council.

Quorum

(3) Such officers and employees of the Judicial Council as are considered necessary may be appointed under the *Public Service Act*.

Staff

R.S.O. 1980,  
c. 418

(4) The Judicial Council may engage persons, including counsel, to assist it in its investigations. 1984, c. 11, s. 57, amended.

Expert

assistance

(5) An investigation commenced by the Judicial Council before this section comes into force shall be continued by the Judicial Council as it was constituted before this section comes into force. *New.*

Transition

**47.**—(1) The functions of the Judicial Council are,

Functions

- (a) to consider all proposed appointments of provincial judges and make a report on them to the Attorney General;
- (b) to receive and investigate complaints against provincial judges.

(2) No action or other proceeding for damages shall be instituted against the Judicial Council or any member or officer of it or any person acting under its authority for any act

Liability for  
damages

done in good faith in the execution or intended execution of its or his or her duty. 1984, c. 11, s. 58.

Investigation  
of complaints

**48.**—(1) Where the Judicial Council receives a complaint against a provincial judge, it shall take such action to investigate the complaint as it considers advisable.

Referral to  
Chief Judge

(2) The Judicial Council may transmit those complaints it considers appropriate,

(a) concerning provincial judges to the Chief Judge of the Provincial Division; and

(b) concerning masters to the Chief Judge of the Ontario Court.

Proceedings  
not public

(3) The proceedings of the Judicial Council shall not be public, but it may inform the Attorney General respecting matters that it has investigated and the Attorney General may make public the fact that an investigation has been undertaken.

Prohibiting  
publication

(4) The Judicial Council may order that information or documents relating to its proceedings not be published or disclosed except as required by law.

Powers  
R.S.O. 1980,  
c. 411

(5) The Judicial Council has all the powers of a commission under Part II of the *Public Inquiries Act*, which Part applies to the investigation as if it were an inquiry under that Act.

Notice of  
disposition

(6) When the Judicial Council has dealt with a complaint regarding a provincial judge, it shall inform the following persons of its disposition of the complaint:

1. The person who made the complaint.

2. If the complaint was brought to the attention of the judge, the judge.

Report and  
recommendations

(7) The Judicial Council may report its opinion regarding the complaint to the Attorney General and may recommend,

(a) that an inquiry be held under section 49;

(b) that the judge be compensated for all or part of the costs incurred by the judge relating to the investigation.

Copy to  
judge

(8) A copy of a report made under subsection (7) shall be given to the judge.

(9) The Judicial Council shall not make a report under subsection (7) unless the judge was notified of the investigation and given an opportunity to be heard and to produce evidence on his or her behalf. Right to be heard

(10) When the Judicial Council makes a report to the Attorney General under subsection (7), the Attorney General may make all or part of the report public, if he or she is of the opinion that it is in the public interest to do so. 1984, c. 11, s. 59, *amended*. Publication of report

**49.**—(1) The Lieutenant Governor in Council may appoint a judge of the General Division to inquire into the question whether a provincial judge should be removed from office. Inquiry

(2) The *Public Inquiries Act* applies to an inquiry under subsection (1). Powers  
R.S.O. 1980,  
c. 411

(3) The report of the inquiry may recommend, Report

(a) that the judge be removed from office;

(b) that the judge be compensated for all or part of the costs incurred by the judge relating to the inquiry.

(4) The report of the inquiry shall be laid before the Legislative Assembly if it is in session or, if not, within fifteen days after the commencement of the next session. 1984, c. 11, s. 60, *amended*. Tabling of report

**50.** Every provincial judge is a justice of the peace and commissioner for taking affidavits. 1984, c. 11, s. 61. Every provincial judge a justice

**51.**—(1) The committee known as the Ontario Provincial Courts Committee is continued as the Provincial Judges Remuneration Commission. Provincial Judges Remuneration Commission

(2) The Commission shall be composed of the following three members: Composition of Commission

1. One appointed jointly by the associations representing provincial judges.
2. One appointed by the Lieutenant Governor in Council.
3. One, who shall head the Commission, appointed jointly by the bodies referred to in paragraphs 1 and 2.



## Function

(3) The function of the Provincial Judges Remuneration Commission is to inquire into and make recommendations to the Lieutenant Governor in Council respecting any matter relating to the remuneration, allowances and benefits of provincial judges, including the matters referred to in clauses 53 (1) (b) and (c).

## Annual report

(4) The Commission shall make an annual report of its activities to the Lieutenant Governor in Council.

## Tabling of recommendations

(5) Recommendations of the Commission and its annual report shall be laid before the Legislative Assembly if it is in session or, if not, within fifteen days of the commencement of the next session. 1984, c. 11, s. 88, *amended*.

## MISCELLANEOUS

## Meeting of judges

**52.**—(1) The judges of the Ontario Court of Justice shall meet at least once in each year, on a day fixed by the Chief Judge of the Ontario Court, in order to consider this Act, the rules of court and the administration of justice generally.

## Idem

(2) The judges shall report their recommendations to the Attorney General. 1984, c. 11, s. 10, *amended*.

## Regional meeting of judges

(3) The judges of the Ontario Court of Justice in each region shall meet at least once in each year, on a day fixed by the regional senior judge of the General Division, in order to consider this Act, the rules of court and the administration of justice in the region generally.

## Idem

(4) The judges shall report their recommendations to the Attorney General. *New*.

## Regulations

**53.**—(1) The Lieutenant Governor in Council may make regulations,

- (a) fixing the number of judges of the General Division who are in addition to the Chief Judge, the regional senior judges and the Senior Judge for the Unified Family Court;
- (b) fixing the remuneration of provincial judges and masters;
- (c) providing for the benefits to which provincial judges and masters are entitled, including,
  - (i) leave of absence and vacations,

- (ii) sick leave credits and payments in respect of those credits,
- (iii) pension benefits for provincial judges, masters and their surviving spouses and children;
- (d) prescribing territorial divisions for the Small Claims Court and the place within each division where the court office shall be located;
- (e) prescribing the maximum amount of a claim in the Small Claims Court for the purposes of subsection 23 (1);
- (f) prescribing the maximum amount of a claim over which a deputy judge may preside for the purposes of subsection 24 (1);
- (g) providing for the retention of fees by clerks, bailiffs and referees of the Small Claims Court who are not civil servants under the *Public Service Act* and designating divisions where clerks, bailiffs and referees of the Small Claims Court may be appointed to a position as a civil servant under that Act;
- (h) prescribing for each region the minimum number of judges of the General Division and of the Provincial Division who are to be assigned to that region. 1984, c. 11, s. 4 (2), s. 20 (4), s. 87 (1), *amended*.

R.S.O. 1980,  
c. 418

(2) A reduction in the number of judges of the General Division under clause (1) (a) does not affect appointments existing at the time of the reduction. 1984, c. 11, s. 4 (2), *amended*.

Idem

(3) Regulations made under clause (1) (c) may require judges and masters to contribute from their salaries part of the costs of benefits and may fix the amount of the contributions.

Contributions

(4) A regulation made under clause (1) (c) may modify or exclude the application of the *Public Service Superannuation Act*.

Application  
of  
R.S.O. 1980,  
c. 419

(5) A regulation made under subsection (1) may be general or particular in its application. 1984, c. 11, s. 20 (5-7), s. 87 (2-4), *amended*.

Application  
of regulations



## PART III

## UNIFIED FAMILY COURT

Unified  
Family Court

**54.** The Unified Family Court is continued as a superior court of record in and for The Regional Municipality of Hamilton-Wentworth. 1984, c. 11, s. 38, *amended*.

Composition  
of court

**55.**—(1) The Unified Family Court shall be presided over by,

(a) a judge of the Ontario Court (General Division) appointed as senior judge for the Unified Family Court; or

(b) a judge of the Ontario Court (General Division),

who is authorized under subsection (4) to exercise the jurisdiction of a judge of the Ontario Court (Provincial Division).

Duties of  
senior judge

(2) The senior judge for the Unified Family Court shall supervise and direct the sittings and the assignment of the judicial duties of the Unified Family Court.

Authority for  
Provincial  
Division  
matters

(3) The Lieutenant Governor in Council may authorize a judge of the General Division to exercise the jurisdiction of a judge of the Provincial Division.

Exercise of  
existing  
jurisdiction

(4) A judge who may preside over the Unified Family Court shall exercise his or her jurisdiction as a judge of the General Division or a judge of the Provincial Division in the matters in which the General Division or the Provincial Division or a judge of one of them has jurisdiction under the statutory provisions set out in the Schedule to this Part. 1984, c. 11, s. 39; 1987, c. 1, s. 1, *amended*.

Proceedings  
in Unified  
Family Court

**56.**—(1) Proceedings taken in a court in The Regional Municipality of Hamilton-Wentworth under the statutory provisions set out in the Schedule to this Part, other than by way of appeal, shall be commenced and titled in the Unified Family Court and the jurisdiction of the court shall be exercised in the Unified Family Court.

Idem  
S.C. 1986,  
c. 4  
1986, c. 4  
R.S.O. 1980,  
c. 68

(2) A motion for interim relief under the *Divorce Act*, 1985 (Canada), the *Family Law Act*, 1986 or the *Children's Law Reform Act* in a proceeding in the General Division shall be heard in the Unified Family Court if it is required or permitted to be heard in The Regional Municipality of Hamilton-Wentworth by the rules of court or an order of the court. 1984, c. 11, s. 40 (1, 2) *amended*.

(3) All proceedings in or transferred to the Unified Family Court shall be heard and determined without a jury. 1984, c. 11, s. 40 (4), *amended*. No jury

**57.** Where a proceeding is commenced in the Unified Family Court in a matter over which jurisdiction may be exercised in the Unified Family Court and is combined with a related matter in the jurisdiction of the judge but respecting which jurisdiction may not be exercised in the Unified Family Court, the court may, with leave of the judge, hear and determine the combined matters. 1984, c. 11, s. 41, *amended*. Other jurisdiction

**58.**—(1) The Unified Family Court may hear and determine an application under an Act to discharge, vary or suspend an order made by the Provincial Court (Family Division) of the Judicial District of Hamilton-Wentworth. Orders of predecessor court

(2) The Unified Family Court may enforce orders made by the Provincial Court (Family Division) of the Judicial District of Hamilton-Wentworth. 1984, c. 11, s. 42, *amended*. Enforcement

**59.**—(1) Subject to subsection (2), proceedings referred to in subsection 56 (1) may be commenced in the Unified Family Court where the applicant or the respondent resides in The Regional Municipality of Hamilton-Wentworth. 1984, c. 11, s. 44 (1), *amended*. Place where proceedings commenced

(2) An application under Part III of the *Children's Law Reform Act* in respect of a child who ordinarily resides in The Regional Municipality of Hamilton-Wentworth may be commenced in the Unified Family Court. 1984, c. 11, s. 44 (2), *amended*. Idem, custody or access  
R.S.O. 1980, c. 68

(3) A judge who may preside over the Unified Family Court may, on motion, order that a proceeding commenced in the Unified Family Court be transferred to the appropriate court in a place where there is no Unified Family Court if, in the opinion of the judge, there is a preponderance of convenience for the matter to be dealt with by that court. 1984, c. 11, s. 44 (3). Transfer to other court

(4) A judge of a court having jurisdiction in a proceeding under a statutory provision set out in the Schedule to this Part in an area other than The Regional Municipality of Hamilton-Wentworth may, on motion, order that the proceeding be transferred to the Unified Family Court if, in the opinion of the judge, there is a preponderance of convenience for the matter to be dealt with by that court. 1984, c. 11, s. 44 (4), *amended*. Transfer from other court

## Directions

(5) A judge making an order under subsection (3) or (4) may give such directions for the transfer as are considered just. 1984, c. 11, s. 44 (5).

## Status of orders

**60.** An order of a judge presiding over the Unified Family Court made in the exercise of his or her jurisdiction as a judge of the Ontario Court (General Division) is an order of the General Division for all purposes. 1984, c. 11, s. 45, *amended*.

## Appeals

**61.**—(1) Subject to subsection (2), a provision for an appeal from an order made under the statutory provisions set out in the Schedule to this Part applies to an order when made in the exercise of the jurisdiction by a judge presiding over the Unified Family Court.

## Idem

(2) Where an order made by the Unified Family Court under a statutory provision set out in the Schedule to this Part is within the jurisdiction of the Ontario Court (General Division) outside The Regional Municipality of Hamilton-Wentworth, the order shall, for the purposes of an appeal, be deemed to have been made by a judge of the General Division. 1984, c. 11, s. 46 (1, 2), *amended*.

## Idem

(3) Where no provision is made for an appeal from an order of a judge presiding over the Unified Family Court, an appeal lies,

- (a) to the Court of Appeal from a final order, except an order referred to in clause (b);
- (b) to the Divisional Court from a final order,
  - (i) for a single payment of not more than \$25,000, exclusive of costs,
  - (ii) for periodic payments that amount to not more than \$25,000, exclusive of costs, in the twelve months commencing on the date the first payment is due under the order,
  - (iii) dismissing a claim for an amount that is not more than the amount set out in subclause (i) or (ii), or
  - (iv) dismissing a claim for an amount that is more than the amount set out in subclause (i) or (ii) and in respect of which the judge indicates that if the claim had been allowed the amount



awarded would have been not more than the amount set out in subclause (i) or (ii); or

- (c) to the Divisional Court from an interlocutory order, with leave as provided in the rules of court. 1984, c. 11, s. 46 (4), *amended*.

**62.**—(1) A judge presiding over the Unified Family Court has all the powers of a judge sitting in the Ontario Court (Provincial Division) for the purposes of proceedings under the *Criminal Code* (Canada).

Criminal jurisdiction

R.S.C. 1985, c. C-46

(2) The Unified Family Court shall be deemed to be and shall sit as the Provincial Division for the purpose of prosecutions under the *Family Law Act, 1986*, the *Children's Law Reform Act*, the *Minors' Protection Act* and Part III (Child Protection) and Part VII (Adoption) of the *Child and Family Services Act, 1984*.

Idem

1986, c. 4

R.S.O. 1980, cc. 68, 293

1984, c. 55

(3) The Unified Family Court is a youth court for the purpose of the *Young Offenders Act* (Canada). 1984, c. 11, s. 47, *amended*.

Idem

R.S.C. 1985, c. Y-1

**63.** A conciliation service may be established, maintained and operated as part of the Unified Family Court. 1984, c. 11, s. 49.

Conciliation service

**64.**—(1) The Lieutenant Governor in Council may make rules for the Unified Family Court in relation to the practice and procedure of the court and may make rules for the court, even though they alter or conform to the substantive law, in relation to,

Rules

- (a) conduct of proceedings in the court;
- (b) joinder of claims and parties, and representation of parties;
- (c) commencement of proceedings and service of process in or outside Ontario;
- (d) discovery and other forms of disclosure before hearing, including their scope and their admissibility and use in a proceeding;
- (e) examination of witnesses in or out of court;
- (f) duties of clerks and other officers;



- (g) references of proceedings or issues in a proceeding and the powers of a person conducting a reference;
- (h) costs of proceedings;
- (i) enforcement of orders and process;
- (j) payment into and out of court;
- (k) any matter that is referred to in an Act as provided for by rules of court.

Idem

(2) Nothing in subsection (1) authorizes the making of rules that conflict with an Act, but rules may be made under subsection (1) supplementing the provisions of an Act in respect of practice and procedure.

Idem

(3) The rules of court made under Part V do not apply to proceedings in the Unified Family Court. 1984, c. 11, s. 51, *amended*.

## SCHEDULE

Jurisdiction under the following statutory provisions:

	Statutes	Provisions
1.	Annulment of Marriages Act (Ontario) (Canada)	All
2.	Change of Name Act, 1986	All
3.	Child and Family Services Act, 1984	Parts III, VI and VII
4.	Children's Law Reform Act	All, except sections 60 and 61
5.	Divorce Act, 1985 (Canada)	All
6.	Education Act	Sections 29 and 30
7.	Family Law Act, 1986	All, except Part V
8.	Marriage Act	Sections 6 and 9
9.	Minors' Protection Act	Section 2
10.	Reciprocal Enforcement of Maintenance Orders Act, 1982	All
11.	Support and Custody Orders Enforcement Act, 1985	All
12.	Young Offenders Act (Canada)	All

## PART IV

## RULES OF COURT

**65.**—(1) The Civil Rules Committee is established and shall be composed of, Civil Rules Committee

- (a) the Chief Justice of Ontario, the Associate Chief Justice of Ontario, the Chief Judge of the Ontario Court and the Chief Judge of the Ontario Court (Provincial Division);
- (b) one judge of the Court of Appeal, who shall be appointed by the Chief Justice of Ontario;
- (c) nine judges of the Ontario Court (General Division), who shall be appointed by the Chief Judge of the Ontario Court;
- (d) the Attorney General or a person designated by the Attorney General;
- (e) one law officer of the Crown, who shall be appointed by the Attorney General;
- (f) two persons employed in the administration of the courts, who shall be appointed by the Attorney General;
- (g) four barristers and solicitors, who shall be appointed by the Benchers of The Law Society of Upper Canada in convocation;
- (h) one barrister and solicitor, who shall be appointed by the Chief Justice of Ontario; and
- (i) four barristers and solicitors, who shall be appointed by the Chief Judge of the Ontario Court.

(2) The Chief Justice of Ontario shall preside over the Civil Rules Committee but, if the Chief Justice of Ontario is absent or so requests, another member designated by the Chief Justice of Ontario shall preside. Idem

(3) Each of the members of the Civil Rules Committee appointed under clauses (1) (b), (c), (e), (f), (g), (h) and (i) shall hold office for a period of three years and is eligible for reappointment. Tenure of office

## Vacancies

(4) Where a vacancy occurs among the members appointed under clause (1) (b), (c), (e), (f), (g), (h) or (i), a new member similarly qualified may be appointed for the remainder of the unexpired term.

## Quorum

(5) A majority of the members of the Civil Rules Committee constitutes a quorum. 1984, c. 11, s. 89, *amended*.

## Civil Rules

**66.**—(1) Subject to the approval of the Lieutenant Governor in Council, the Civil Rules Committee may make rules for the Court of Appeal and the Ontario Court (General Division) in relation to the practice and procedure of those courts in all civil proceedings, including family law proceedings.

## Idem

(2) The Civil Rules Committee may make rules for the courts described in subsection (1), even though they alter or conform to the substantive law, in relation to,

- (a) conduct of proceedings in the courts;
- (b) joinder of claims and parties, settlement of claims by or against persons under disability, whether or not a proceeding has been commenced in respect of the claim, the binding effect of orders and representation of parties;
- (c) commencement of proceedings, representation of parties by solicitors and service of process in or outside Ontario;
- (d) disposition of proceedings without a hearing and its effect and authorizing the Court of Appeal to determine in the first instance a special case arising in a proceeding commenced in the Ontario Court (General Division);
- (e) pleadings;
- (f) discovery and other forms of disclosure before hearing, including their scope and the admissibility and use of that discovery and disclosure in a proceeding;
- (g) examination of witnesses in or out of court;
- (h) jurisdiction of masters, including the conferral on masters of any jurisdiction of the Ontario Court (General Division), including jurisdiction under an Act, but not including the trial of actions or jurisdiction conferred by an Act on a judge;

- (i) jurisdiction and duties of officers;
- (j) motions and applications, including the hearing of motions in the absence of the public and prohibiting a party from making motions without leave;
- (k) preservation of rights of parties pending the outcome of litigation, including sale, recovery of possession or preservation of property;
- (l) interpleader;
- (m) preparation for trial and offers to settle and their legal consequences;
- (n) the mode and conduct of trials;
- (o) the appointment by the court of independent experts, their remuneration and the admissibility and use of their reports;
- (p) the discount rate to be used in determining the amount of an award in respect of future pecuniary damages;
- (q) references of proceedings or issues in a proceeding and the powers of a person conducting a reference;
- (r) costs of proceedings, including security for costs and a solicitor's liability for or disentitlement to costs;
- (s) enforcement of orders and process or obligations under the rules;
- (t) the time for and procedure on appeals and stays pending appeal;
- (u) payment into and out of court;
- (v) any matter that is referred to in an Act as provided for by rules of court.

(3) Nothing in subsection (1) or (2) authorizes the making of rules that conflict with an Act, but rules may be made under subsections (1) and (2) supplementing the provisions of an Act in respect of practice and procedure. 1984, c. 11, s. 90, *amended*. Idem

**67.**—(1) The Family Rules Committee is established and shall be composed of, Family Rules Committee



- (a) the Chief Justice of Ontario, the Associate Chief Justice of Ontario, the Chief Judge of the Ontario Court and the Chief Judge of the Ontario Court (Provincial Division);
- (b) the senior judge for the Unified Family Court;
- (c) one judge of the Court of Appeal, who shall be appointed by the Chief Justice of Ontario;
- (d) three judges of the Ontario Court (General Division), who shall be appointed by the Chief Judge of the Ontario Court;
- (e) four judges of the Ontario Court (Provincial Division), who shall be appointed by the Chief Judge of the Ontario Court (Provincial Division);
- (f) the Attorney General or a person designated by the Attorney General;
- (g) one law officer of the Crown, who shall be appointed by the Attorney General;
- (h) two persons employed in the administration of the courts, who shall be appointed by the Attorney General;
- (i) four barristers and solicitors, who shall be appointed by the Benchers of The Law Society of Upper Canada in convocation;
- (j) two barristers and solicitors, who shall be appointed by the Chief Judge of the Ontario Court; and
- (k) two barristers and solicitors, who shall be appointed by the Chief Judge of the Ontario Court (Provincial Division).

Idem

(2) The Chief Justice of Ontario shall preside over the Family Rules Committee but, if the Chief Justice of Ontario is absent or so requests, another member designated by the Chief Justice shall preside.

Tenure of  
office

(3) Each of the members of the Family Rules Committee appointed under clauses (1) (c), (d), (e), (g), (h), (i), (j) and (k) shall hold office for a period of three years and is eligible for reappointment.

(4) Where a vacancy occurs among the members appointed under clause (1) (c), (d), (e), (g), (h), (i), (j) or (k), a new member similarly qualified may be appointed for the remainder of the unexpired term. Vacancies

(5) A majority of the members of the Family Rules Committee constitutes a quorum. *New.* Quorum

**68.**—(1) Subject to the approval of the Lieutenant Governor in Council, the Family Rules Committee may make rules for the Court of Appeal, the Ontario Court (General Division) and the Ontario Court (Provincial Division) in relation to the practice and procedure of those courts in proceedings under statutory provisions set out in the Schedule to Part III (Unified Family Court), except proceedings under the *Young Offenders Act* (Canada). Family Rules  
R.S.C. 1985,  
c. Y-1

(2) Subsections 66 (2) and (3) apply with necessary modifications to the Family Rules Committee making rules for the courts described in subsection (1). Idem

(3) The rules made by the Family Rules Committee may adopt, modify or exclude the rules made by the Civil Rules Committee. May modify  
civil rules

(4) Subject to the approval of the Lieutenant Governor in Council, the Family Rules Committee may prepare rules for the purpose of section 68 of the *Young Offenders Act* (Canada) for consideration by the Ontario Court (Provincial Division). *New.* Rules for  
*Young  
Offenders Act*

**69.**—(1) The Criminal Rules Committee is established and shall be composed of, Criminal  
Rules  
Committee

- (a) the Chief Justice of Ontario, the Associate Chief Justice of Ontario, the Chief Judge of the Ontario Court and the Chief Judge of the Ontario Court (Provincial Division);
- (b) one judge of the Court of Appeal, who shall be appointed by the Chief Justice of Ontario;
- (c) three judges of the Ontario Court (General Division), who shall be appointed by the Chief Judge of the Ontario Court;
- (d) four judges of the Ontario Court (Provincial Division), who shall be appointed by the Chief Judge of the Ontario Court (Provincial Division);

- (e) one justice of the peace, who shall be appointed by the Chief Judge of the Ontario Court (Provincial Division);
- (f) the Attorney General or a person designated by the Attorney General;
- (g) one law officer of the Crown, who shall be appointed by the Attorney General;
- (h) three Crown attorneys, deputy Crown attorneys or assistant Crown attorneys, who shall be appointed by the Attorney General;
- (i) two persons employed in the administration of the courts, who shall be appointed by the Attorney General;
- (j) two barristers and solicitors, who shall be appointed by the Benchers of The Law Society of Upper Canada in convocation;
- (k) one barrister and solicitor, who shall be appointed by the Chief Justice of Ontario;
- (l) one barrister and solicitor, who shall be appointed by the Chief Judge of the Ontario Court; and
- (m) one barrister and solicitor, who shall be appointed by the Chief Judge of the Ontario Court (Provincial Division).

Idem

(2) The Chief Justice of Ontario shall preside over the Criminal Rules Committee but, if the Chief Justice of Ontario is absent or so requests, another member designated by the Chief Justice of Ontario shall preside.

Tenure of office

(3) Each of the members of the Criminal Rules Committee appointed under clauses (1) (b), (c), (d), (e), (g), (h), (i), (j), (k), (l) and (m) shall hold office for a period of three years and is eligible for reappointment.

Vacancies

(4) Where a vacancy occurs among the members appointed under clause (1) (b), (c), (d), (e), (g), (h), (i), (j), (k), (l) or (m), a new member similarly qualified may be appointed for the remainder of the unexpired term.

Quorum

(5) A majority of the members of the Criminal Rules Committee constitutes a quorum. *New.*



**70.**—(1) Subject to the approval of the Lieutenant Governor in Council, the Criminal Rules Committee may prepare rules for the purposes of section 482 of the *Criminal Code* (Canada) for consideration by the Court of Appeal, the Ontario Court (General Division) and the Ontario Court (Provincial Division).

Criminal  
Rules

R.S.C. 1985,  
c. C-46

(2) Subject to the approval of the Lieutenant Governor in Council, the Criminal Rules Committee may make rules for the Court of Appeal, the Ontario Court (General Division) and the Ontario Court (Provincial Division) in relation to the practice and procedure of those courts in proceedings under the *Provincial Offences Act*. *New.*

Provincial  
offences rules

R.S.O. 1980,  
c. 400

(3) The Criminal Rules Committee may make rules under subsection (2),

Idem

- (a) regulating any matters relating to the practice and procedure of proceedings under the *Provincial Offences Act*;
- (b) prescribing forms;
- (c) regulating the duties of the employees of the courts;
- (d) prescribing and regulating the procedures under any Act that confers jurisdiction under the *Provincial Offences Act* on the Ontario Court (Provincial Division) or a judge or justice of the peace sitting in it;
- (e) prescribing any matter relating to proceedings under the *Provincial Offences Act* that is referred to in an Act as provided for by the rules of court. 1984, c. 11, s. 73 (3), *amended*.

**3. Sections 92 and 93 of the said Act are repealed and the following substituted therefor:**

**92.**—(1) There shall be a committee, known as the Ontario Courts Management Committee, composed of,

Ontario  
Courts  
Management  
Committee

- (a) the Chief Justice of Ontario;
- (b) the Associate Chief Justice of Ontario;
- (c) the Chief Judge of the Ontario Court;
- (d) the Chief Judge of the Ontario Court (Provincial Division);



- (e) the Attorney General;
- (f) the Deputy Attorney General; and
- (g) such other persons as are appointed by the Attorney General after consultation with the persons mentioned in clauses (a) to (d).

Who to  
preside

(2) The Chief Justice of Ontario, the Chief Judge of the Ontario Court and the Attorney General or his or her designate shall, by rotation, preside over meetings of the Committee.

Function of  
Committee

(3) The function of the Committee is to consider and recommend policies and procedures to promote the better administration of justice and the effective use of resources, including judicial and other personnel, in the public interest. *New.*

Regions for  
judicial  
purposes

**92a.**—(1) For judicial purposes, Ontario is divided into the regions prescribed under subsection (2).

Regulations

(2) The Lieutenant Governor in Council may make regulations prescribing regions for the purpose of this Act. *New.*

Regional  
courts  
management  
committees

**92b.**—(1) There shall be a committee in each region, known as the Regional Courts Management Committee, composed of,

- (a) the regional senior judge of the Ontario Court (General Division);
- (b) the regional senior judge of the Ontario Court (Provincial Division);
- (c) the regional director of courts administration for the Ministry of the Attorney General;
- (d) the regional director of Crown attorneys;
- (e) a barrister and solicitor who practises law in the region, to be appointed by the Attorney General; and
- (f) such other persons as are appointed by the Attorney General after consultation with the persons mentioned in clauses (a) and (b).

Who to  
preside

(2) The persons mentioned in clauses (1) (a) to (d) shall, by rotation, preside over meetings of the Committee.

(3) The function of the Committee is to consider and recommend policies and procedures for the region to promote the better administration of justice and the effective use of resources, including judicial and other personnel, in the public interest.

Function of  
Committee

(4) The Committee shall meet at least four times each year.

*New.*

Frequency of  
meetings

**93.** The powers and duties of a judge who has authority to supervise and direct the sittings and the assignment of the judicial duties of his or her court include the following:

Powers of  
chief or  
regional  
senior judge

1. Assigning cases to individual judges.
2. Determining the sitting schedules for individual judges.
3. Determining the places of sittings for individual judges.
4. Determining the total annual, monthly and weekly workload of individual judges.
5. Preparing trial lists and assigning courtrooms, to the extent necessary to control the determination of who is assigned to hear particular cases. 1984, c. 11, s. 93, *amended*.

**4. Section 94 of the said Act is amended by adding thereto the following subsections:**

(2) A power or duty given to a registrar, sheriff, court clerk, assessment officer or official examiner under an Act, regulation or rule of court may be exercised or performed by a person or class of persons to whom the power or duty has been assigned by the Deputy Attorney General or a person designated by the Deputy Attorney General.

Exercise of  
powers of  
registrar,  
sheriff, etc.

(3) Subsection (2) applies in respect of an Act, regulation or rule of court made under the authority of the Legislature or of the Parliament of Canada.

Idem

**5. The said Act is amended by adding thereto the following section:**

**95a.** Documents and other material that are no longer required in a court office shall be disposed of in accordance with the directions of the Deputy Attorney General, subject to the approval of,

Destruction  
of documents

- (a) in the Court of Appeal, the Chief Justice of Ontario;
- (b) in the Ontario Court of Justice, the Chief Judge of the Ontario Court of Justice;
- (c) in the Unified Family Court, the Senior Judge for the Unified Family Court. 1984, c. 11, s. 101 (4), *amended*.

**6. Section 98 of the said Act is repealed and the following substituted therefor:**

Liability of  
judges

**98.** Every judge of a court in Ontario and every master has the same immunity from liability as a judge of the Ontario Court (General Division).

**7. Section 99 of the said Act is repealed and the following substituted therefor:**

Compensation for  
statutory  
duties

**99.** Every judge who was a judge of the Supreme Court or of the District Court before this section comes into force shall be paid out of the Consolidated Revenue Fund the annual sum of \$3,000, payable quarterly, as compensation for the services the judge is called on to render by any Act of the Legislature in addition to his or her ordinary duties.

**8.** Subsection 100 (1) of the said Act is amended by striking out "Supreme Court or the District Court" in the first and second lines and inserting in lieu thereof "Court of Appeal or the Ontario Court (General Division)".

**9.** The said Act is further amended by adding thereto the following sections:

Judges'  
gowns

**100a.** The Lieutenant Governor in Council may make regulations respecting the form of the gown to be worn in court by all judges appointed after this section comes into force.

How judges  
to be  
addressed

**100b.**—(1) Every judge of the Ontario Court of Justice and the Unified Family Court may be addressed as "Your Honour" or as "Judge (*naming the judge*)".

Idem

(2) A judge appointed to the High Court of Justice before this section comes into force may elect to be addressed according to the practice in existence before this section comes into force.



**10. Section 101 of the said Act is repealed and the following substituted therefor:**

**101.**—(1) Every person who was a master of the Supreme Court before this section comes into force is a master of the Ontario Court (General Division). *New.*

Masters

(2) Every master has the jurisdiction conferred by the rules of court in proceedings in the General Division. 1984, c. 11, s. 20 (3).

Jurisdiction

(3) Sections 42 to 49 apply with necessary modifications to masters in the same manner as to provincial judges. 1984, c. 11, s. 20 (11), *amended.*

Application  
of  
ss. 42-49

**101a.**—(1) Money paid into the Ontario Court (General Division) shall be paid to the Accountant of the Ontario Court and such money and securities in which the money is invested are vested in the Accountant.

Money  
vested in  
Accountant

(2) Mortgages and other securities taken under an order of the Ontario Court (General Division) and instruments taken as security in respect of a proceeding in the Ontario Court (General Division) shall be taken in the name of the Accountant and shall be deposited in his or her office, except where an order provides otherwise.

Security held  
by  
Accountant

(3) The Accountant has no duty or obligation in respect of the instruments deposited under subsection (2) except as custodian of the instruments, unless an order of the court provides otherwise.

Idem

(4) The Provincial Auditor shall examine and report on the accounts and financial transactions of the Accountant. 1984, c. 11, s. 22, *amended.*

Audit by  
Provincial  
Auditor

**101b.**—(1) The finance committee is continued and shall be composed of three persons appointed by the Lieutenant Governor in Council.

Finance  
committee

(2) The finance committee has control and management of the money in the Ontario Court (General Division), the investment of the money and the securities in which it is invested.

Management  
of court  
funds

(3) Money that is available for investment shall be invested in investments in which the Treasurer of Ontario may invest public money under section 3 of the *Financial Administration Act*.

Investment of  
court fundsR.S.O. 1980,  
c. 161



Employment  
of trust  
company

(4) The finance committee may employ a trust company to make the investments or act as custodian of the securities purchased as investments.

Interest

(5) The finance committee may provide for the payment of interest on money paid into the General Division and may fix the rate of interest so paid.

Reserve  
funds

(6) The finance committee may establish such reserve funds as it considers necessary. 1984, c. 11, s. 23, *amended*.

**11. Subsection 102 (3) of the said Act is amended by striking out "Rules of Civil Procedure" in the third line and inserting in lieu thereof "rules of court".**

**12. Section 103 of the said Act is repealed and the following substituted therefor:**

Assessment  
officers

**103.—**(1) The Lieutenant Governor in Council, on the recommendation of the Attorney General, may appoint assessment officers.

Idem

(2) Every master is an assessment officer.

Jurisdiction

(3) Every assessment officer has jurisdiction to assess costs in a proceeding in any court.

Appeal from  
assessment of  
costs before  
tribunal

(4) Where costs of a proceeding before a tribunal other than a court are to be assessed by an assessment officer,

(a) the rules of court governing the procedure on an assessment of costs apply with necessary modifications; and

(b) an appeal lies to the Ontario Court (General Division) from a certificate of assessment of the costs if an objection was served in respect of the issue appealed in accordance with the rules of court.

**13.—**(1) Subsection 104 (1) of the said Act is repealed.

(2) Subsection 104 (2) of the said Act is amended by striking out "additional" in the second line.

**14.—**(1) Subsection 108 (2) of the said Act is amended by striking out "and" where it occurs the second time in the third line and by inserting after "hearing)" in the fourth line "and 153a (where procedures not provided)".

(2) Subsection 108 (3) of the said Act is amended by striking out “and” in the second line, by inserting after “hearings)” in the third line “and 153a (where procedures not provided)” and by striking out “Offences Court” in the sixth and seventh lines and inserting in lieu thereof “Division”.

**15.** Subsection 109 (3) of the said Act is repealed and the following substituted therefor:

(3) Only the Court of Appeal, the Unified Family Court and the Ontario Court (General Division), excluding the Small Claims Court, may grant equitable relief, unless otherwise provided.

Jurisdiction  
for equitable  
relief

**16.** Section 110 of the said Act is amended by striking out “Supreme Court, the District Court and the Unified Family Court” in the first and second lines and inserting in lieu thereof “Court of Appeal, the Unified Family Court and the Ontario Court (General Division), excluding the Small Claims Court”.

**17.** Subsection 114 (1) of the said Act is amended by striking out “Supreme Court, the District Court or the Unified Family Court” in the first and second lines and inserting in lieu thereof “Unified Family Court or the Ontario Court (General Division), excluding the Small Claims Court”.

**18.—(1)** Subsection 118 (1) is repealed and the following substituted therefor:

(1) In this section, “health practitioner” means a person licensed to practise medicine or dentistry in Ontario or any other jurisdiction, a psychologist registered under the *Psychologists Registration Act* or a person certified or registered as a psychologist by another jurisdiction.

“health  
practitioner”  
defined  
R.S.O. 1980,  
c. 404

(2) Subsection 118 (2) of the said Act is amended by striking out “medical” in the fourth line and inserting in lieu thereof “health”.

(3) Subsection 118 (5) of the said Act is amended by striking out “medical” in the second line and inserting in lieu thereof “health”.

**19.** Subsections 120 (2) and (3) of the said Act are repealed and the following substituted therefor:

(2) A proceeding in the Small Claims Court shall not be transferred under clause (1) (d) to the Ontario Court (General

Transfer  
from Small  
Claims Court

Division) without the consent of the plaintiff in the proceeding in the Small Claims Court.

Idem

(2a) A proceeding in the Small Claims Court shall not be required under subclause (1) (e) (ii) to be asserted by way of counterclaim in a proceeding in the Ontario Court (General Division) without the consent of the plaintiff in the proceeding in the Small Claims Court.

Motions

(3) The motion shall be made to a judge of the Ontario Court (General Division).

**20.—**(1) Subsection 121 (1) of the said Act is amended by striking out “a Supreme Court or District Court” in the first line and inserting in lieu thereof “an Ontario Court (General Division)”.

(2) Subsection 121 (2) of the said Act is amended by striking out “Actions in which a claim is made for any of the following kinds of relief shall be heard without a jury:” in the first and second lines and inserting in lieu thereof “The issues of fact and the assessment of damages in an action shall be tried without a jury in respect of a claim for any of the following kinds of relief:”.

(3) Paragraph 3 of the said subsection 121 (2) is amended by striking out “*Family Law Reform Act*” in the first and second lines and inserting in lieu thereof “*Family Law Act, 1986*”.

**21.** Subsection 122 (2) of the said Act is amended by striking out “Rules of Civil Procedure” in the second line and inserting in lieu thereof “rules of court”.

**22.** Subsection 124 (2) of the said Act is repealed and the following substituted therefor:

Idem

(2) Mutual debts may be set off against each other even if they are of a different nature.

**23.** Clause 129 (b) of the said Act is amended by striking out “*Family Law Reform Act*” in the first line and inserting in lieu thereof “*Family Law Act, 1986*”.

**24.—**(1) Clause 133 (1) (a) of the said Act is amended by striking out “the” in the first line and inserting in lieu thereof “a”.

(2) Clause 133 (1) (b) of the said Act is amended by striking out “local judge or”.



**25.—**(1) Subsection 136 (6) of the said Act is amended by striking out “Provincial Court (Family Division) or the Provincial Court (Civil Division)” in the second and third lines and inserting in lieu thereof “Ontario Court (Provincial Division) or the Small Claims Court”.

(2) Subsection 136 (7) of the said Act is amended by striking out “in the Provincial Offences Court where it is” in the second and third lines and inserting in lieu thereof “under the *Provincial Offences Act* in”.

**26.** Subsection 137 (2) of the said Act is amended by striking out “the Registrar of the Supreme Court” in the first and second lines and inserting in lieu thereof “a person designated by the Deputy Attorney General”.

**27.—**(1) Subsection 150 (1) of the said Act is amended by striking out “Supreme Court” in the first line and in the last line and inserting in lieu thereof in each instance “Ontario Court (General Division)”.

(2) Subsection 150 (3) of the said Act is amended by striking out “Supreme Court” in the fourth line and inserting in lieu thereof “Ontario Court (General Division)”.

**28.** The said Act is further amended by adding thereto the following sections:

**150a.—**(1) Unless an Act provides otherwise, orders of a court arising out of a civil proceeding and enforceable in Ontario shall be directed to the sheriff for enforcement.

Civil orders  
directed to  
sheriffs

(2) A sheriff who believes that the execution of an order may give rise to a breach of the peace may require a police officer to accompany the sheriff and assist in the execution of the order.

Police to  
assist sheriff

**153a.** Jurisdiction conferred on a court, a judge or a justice of the peace shall, in the absence of express provision for procedures for its exercise in any Act, regulation or rule, be exercised in any manner consistent with the due administration of justice. 1984, c. 11, s. 62, *amended*.

Where  
procedures  
not provided

**29.** Sections 157 and 158 of the said Act are repealed and the following substituted therefor:



Continuation  
of  
proceedings  
in former  
courts

**157.** A proceeding pending in a court set out in column 1 of the Table when this section comes into force is continued in the court set out opposite to it in column 2.

TABLE

	<i>Column 1</i>	<i>Column 2</i>
1.	High Court of Justice	Ontario Court (General Division)
2.	District Court	Ontario Court (General Division)
3.	surrogate court	Ontario Court (General Division)
4.	Provincial Court (Criminal Division)	Ontario Court (Provincial Division)
5.	Provincial Court (Family Division)	Ontario Court (Provincial Division)
6.	Provincial Offences Court	Ontario Court (Provincial Division)
7.	Provincial Court (Civil Division)	Small Claims Court

Former Chief  
Judge, etc.

**158.—(1)** A provincial judge who was a Chief Judge, Associate Chief Judge or senior judge of the Provincial Court (Criminal Division), the Provincial Court (Family Division) or the Provincial Court (Civil Division) immediately before this section comes into force shall continue to hold the office of provincial judge, is entitled to retain the title of Chief Judge, Associate Chief Judge or senior judge, as the case may be, and is entitled to an annual salary equal to the greater of,

- (a) the current annual salary of a provincial judge; or
- (b) the annual salary the judge received immediately before this section comes into force.

Former  
Senior  
Master

**(2)** A master who was the Senior Master immediately before this section comes into force shall continue to hold the office of master, is entitled to retain the title of Senior Master and is entitled to an annual salary equal to the greater of,

- (a) the current annual salary of a master; or
- (b) the annual salary the master received immediately before this section comes into force.

Documents  
filed

**158a.** A document filed in court that refers to a court set out in column 1 of the Table to section 160 is not by that reason invalid and shall be deemed to refer to the court set out opposite to it in column 2.

**30. Section 159 of the said Act is repealed and the following substituted therefor:**

**159.** Where, by an Act or regulation, jurisdiction is conferred on a particular court set out in column 1 of the Table, the jurisdiction shall be deemed to be conferred on the corresponding court set out in column 2 sitting in the county or district of the court named. Reference to territorial jurisdiction

TABLE

	<i>Column 1</i>	<i>Column 2</i>
1.	county or district court (General Division)	Ontario Court
2.	surrogate court (General Division)	Ontario Court
3.	provincial court (family division)	Ontario Court (Provincial Division)
4.	provincial offences court (Provincial Division)	Ontario Court
5.	small claims court	Small Claims Court

**31. Section 160 of the said Act is repealed and the following substituted therefor:**

**160.** A reference in an Act, rule or regulation to a court set out in column 1 of the Table is deemed to be a reference to the court set out opposite to it in column 2. References to courts

TABLE

	<i>Column 1</i>	<i>Column 2</i>
1.	Supreme Court	Ontario Court (General Division)
2.	High Court of Justice	Ontario Court (General Division)
3.	county or district court	Ontario Court (General Division)
4.	District Court	Ontario Court (General Division)
5.	surrogate court	Ontario Court (General Division)
6.	small claims court	Small Claims Court
7.	Provincial Court (Civil Division)	Small Claims Court
8.	provincial court (criminal division)	Ontario Court (Provincial Division)
9.	Provincial Court (Criminal Division)	Ontario Court (Provincial Division)

10.	provincial court (family division)	Ontario Court (Provincial Division)
11.	Provincial Court (Family Division)	Ontario Court (Provincial Division)
12.	provincial offences court	Ontario Court (Provincial Division)
13.	Provincial Offences Court	Ontario Court (Provincial Division)

Changes in  
terminology

**160a.**—(1) A reference in any Act, rule or regulation, or order or other court process, to a term set out in column 1 of the Table, or any form thereof, is deemed to refer to the corresponding term set out opposite thereto in column 2.

TABLE

	<i>Column 1</i>	<i>Column 2</i>
1.	Accountant of the Supreme Court	Accountant of the Ontario Court
2.	administrator <i>ad litem</i>	litigation administrator
3.	certificate of <i>lis pendens</i>	certificate of pending litigation
4.	conduct money	attendance money
5.	guardian <i>ad litem</i>	litigation guardian
6.	judicial district	county or district
7.	local judge of the High Court	judge of the Ontario Court (General Division)
8.	local judge of the Supreme Court	judge of the Ontario Court (General Division)
9.	next friend	litigation guardian
10.	originating motion	application
11.	originating notice	notice of application
12.	praecipe	requisition
13.	provisional judicial district	territorial district
14.	a registrar of a surrogate court	the local registrar of the Ontario Court (General Division)
15.	Rules of Civil Procedure	rules of court
16.	Rules Committee	applicable rules committee
17.	Rules Committee of the Supreme and District Courts	applicable rules committee
18.	Rules of Practice and Procedure of the Supreme Court of Ontario made by the Rules Committee	rules of court
19.	special examiner	official examiner
20.	Surrogate Clerk for Ontario	Estate Registrar for Ontario

21.	taxation of costs	assessment of costs
22.	taxing officer	assessment officer
23.	writ of <i>fiery facias</i>	writ of seizure and sale
24.	writ of summons	statement of claim or notice of action

(2) A reference in any Act, rule or regulation to the surrogate registrar for a particular county or district is deemed to be a reference to the local registrar of the Ontario Court (General Division) for that county or district.

Idem,  
surrogate  
registrar for  
a county

(3) A reference in any Act, rule or regulation to the clerk of a county or district court of a particular county or district is deemed to be a reference to the local registrar of the Ontario Court (General Division) for that county or district.

Idem, clerk  
of a county

(4) A reference in any Act, rule or regulation to an order, direction or decision filed with the Registrar of the Supreme Court is deemed to be a reference to an order, direction or decision filed with the Ontario Court (General Division).

Idem, order  
filed with the  
Registrar

**160b.** Where an Act, rule or regulation provides that a document is to be filed with, certified to, forwarded to or transmitted to the Supreme Court or the Registrar of the Supreme Court for the purpose of an appeal to the Divisional Court, that document shall be filed with, certified to, forwarded to or transmitted to, as the case may be, the Divisional Court.

Documents  
filed for  
appeal to  
Divisional  
Court

**160c.**—(1) A reference in this Act or any other Act, rule or regulation to a county or district for judicial purposes is deemed to be a reference to the corresponding area that, for municipal or territorial purposes, comprises the county, district, union of counties or regional, district or metropolitan municipality.

References to  
counties for  
judicial  
purposes

(2) For the purpose of subsection (1), every city, town and other municipality is united to and forms part of the county in which it is situate.

Separated  
municipalities

(3) Subsection (1) is subject to the following:

Exceptions

1. A reference in an Act or regulation to a county or district for judicial purposes is, in the case of The Regional Municipality of Haldimand-Norfolk, deemed to be a reference to the following areas:

i. All the area of the County of Haldimand as it existed on the 31st day of March, 1974.



- ii. All the area of the County of Norfolk as it existed on the 31st day of March, 1974.
2. A reference in an Act or regulation to a county or district for judicial purposes is, in the case of The Regional Municipality of Niagara, deemed to be a reference to the following areas:
  - i. All the area of the County of Lincoln as it existed on the 31st day of December, 1969.
  - ii. All the area of the County of Welland as it existed on the 31st day of December, 1969.
3. A reference in an Act or regulation to a county or district for judicial purposes is, in the case of The Regional Municipality of Sudbury and the Territorial District of Sudbury, deemed to be a reference to all the area in The Regional Municipality of Sudbury and in the Territorial District of Sudbury.
4. A reference in an Act or regulation to a county or district for judicial purposes is, in the case of an area described below, deemed to be a reference to all the area in the areas described below:
  - i. All the area in the County of Victoria.
  - ii. All the area in the County of Haliburton.
  - iii. All the area in any part of the townships of Sherborne, McClintock, Livingstone, Lawrence and Nightingale located in Algonquin Park, so long as the part remains part of Algonquin Park.

**32. Section 212 of the said Act is repealed.**

Commence-  
ment

**33. This Act comes into force on a day to be named by proclamation of the Lieutenant Governor.**

Short title

**34. The short title of this Act is the *Courts of Justice Amendment Act, 1989*.**





# Bill 2

## An Act to amend the Courts of Justice Act, 1984

The Hon. I. Scott  
*Attorney General*

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<i>1st Reading</i>	May 1st, 1989
<i>2nd Reading</i>	June 14th, 1989
<i>3rd Reading</i>	
<i>Royal Assent</i>	

*(Reprinted as amended by the Administration of Justice Committee)*



## EXPLANATORY NOTES

The Bill substantially changes the structure of the Ontario courts.

The present structure of the courts is as follows:

1. The Supreme Court of Ontario has two branches, the Court of Appeal and the High Court of Justice. The Supreme Court is a superior court with civil and criminal jurisdiction whose judges are appointed by the federal government.
2. The District Court of Ontario has both civil and criminal jurisdiction but is not a superior court. Its civil jurisdiction is limited by the *Courts of Justice Act, 1984* to claims of less than \$25,000 unless both parties agree to let it hear a claim for a greater amount. Its judges are appointed by the federal government.
3. The Divisional Court is a division of the High Court that hears specified appeals assigned to it by statute and applications for judicial review of a decision of a board or agency. The judges of the High Court are the judges of the Divisional Court.
4. There are four courts presided over by provincial judges, the Provincial Court (Civil Division), the Provincial Court (Family Division), the Provincial Court (Criminal Division) and the Provincial Offences Court. The Provincial Offences Court is usually presided over by justices of the peace and the Provincial Court (Civil Division) is often presided over by part-time deputy judges.
5. The Unified Family Court is a specialized court for family law proceedings in The Regional Municipality of Hamilton-Wentworth. Its judges are appointed by the federal government and are also given the power of provincial judges for their work in the court.

The structure of the Ontario courts proposed by the Bill is as follows:

1. The Court of Appeal will be continued as the final court of appeal for the Province and will be separated from the High Court.
2. There will be a new court, to be called the Ontario Court of Justice, composed of two divisions, the General Division and the Provincial Division.
3. The Ontario Court (General Division) will combine the jurisdiction now exercised by the High Court, the District Court and the surrogate courts. The existing judges of those courts will all become judges of the Ontario Court (General Division). The General Division will be a superior court.
4. The Divisional Court will be continued with no change in its jurisdiction as a branch of the Ontario Court (General Division). All of the judges of the General Division will be judges of the Divisional Court.
5. The Small Claims Court will also be a branch of the Ontario Court (General Division). The monetary limit of the Small Claims Court will be prescribed by regulation. All of the judges of the General Division will be judges of the Small Claims Court. In addition, provincial judges who were formerly in the Provincial Court (Civil Division) will preside over matters in the Small Claims Court and deputy judges will be appointed for three-year renewable terms to preside over matters in the Small Claims Court that do not exceed a prescribed amount.
6. The Ontario Court (Provincial Division) combines the jurisdiction now exercised by the Provincial Court (Criminal Division), the Provincial Court (Family

Division) and the Provincial Offences Court. The existing judges of those courts will all become judges of the Ontario Court (Provincial Division).

7. The Unified Family Court is established as a superior court but is otherwise not changed.

A judge of the General Division will be appointed as Chief Judge of the Ontario Court to manage judicial resources for the General Division of the Ontario Court of Justice. A provincial judge will be appointed as Chief Judge of the Ontario Court (Provincial Division) to manage judicial resources for the Provincial Division.

The Province will be divided into regions for judicial purposes, with the number and area of the regions to be prescribed by regulation. A judge of the General Division will be appointed as regional senior judge of the General Division for each region to manage judicial resources for the General Division in the region, subject to the authority of the Chief Judge of the Ontario Court. A provincial judge will be appointed as regional senior judge of the Provincial Division for each region to manage judicial resources for the Provincial Division in the region, subject to the authority of the Chief Judge of the Ontario Court (Provincial Division).

The Chief Judge of the Ontario Court (Provincial Division) and the regional senior judges of the Provincial Division will be appointed to their administrative positions for five-year terms, after which they will return to being provincial judges.

The Ontario Courts Advisory Council will be replaced by the Ontario Courts Management Committee. In addition, each region will have a Regional Courts Management Committee consisting of the regional senior judges, the regional director of courts administration, the regional director of Crown attorneys and representatives of the regional bar and the public.

The Bill will also restructure rule-making for the courts. Part V of the existing Act establishes the Rules Committee of the Supreme and District Courts and provides for the making of rules of practice and procedure for civil proceedings in those courts. The Bill will establish three separate rules committees, the Civil Rules Committee, the Family Rules Committee and the Criminal Rules Committee, each to make rules in their respective areas.

Some of the other changes to the Act are as follows:

1. The number of judges of the Court of Appeal will be fixed by regulation rather than by statute.
2. Every judge of the General Division must be assigned to a particular region and there must be at least one judge of the General Division assigned to each county or district.
3. The judges of the Ontario Court of Justice are required to meet at least once each year and the judges of the Ontario Court in each region are required to meet at least once in each year to consider the Act, the rules and the administration of justice.
4. A limit on costs in the Small Claims Court is set at 15 per cent of the amount claimed unless the court considers it necessary in the interests of justice to penalize a person for unreasonable behaviour in the proceeding.
5. The Act now provides that the Province will pay \$3,000 each year to federally appointed judges. Although these payments will continue for judges appointed before the Bill comes into force, no payments will be made to future appointees.
6. There is no provision for the appointment of new masters.

7. The Lieutenant Governor in Council will be permitted to prescribe the form of the gown worn in court by all judges appointed after the Bill comes into force.
8. All Ontario Court and Unified Family Court judges may be addressed as "Your Honour", subject to the right of former High Court judges to elect to be addressed according to the old practice.
9. Errors in the Act are corrected with respect to jury trials (section 121) and setting off mutual debts (section 124). The medical examination provision of the Act (section 118) is amended to permit a court to order an examination by a registered psychologist.
10. The salaries of former Chief Judges, Associate Chief Judges and senior judges of the provincial courts and of the Senior Master are protected and they are permitted to retain their titles.
11. The transitional provisions and complementary amendments in the Act are amended to ensure the continuation of existing court proceedings in the new courts and to deem references to courts in other statutes to be references to the new courts.

The Bill is accompanied by the *Court Reform Statute Law Amendment Act, 1989*, which repeals the *Sheriffs Act* and makes consequential amendments to 52 other statutes.

**Bill 2****1989****An Act to amend the Courts of Justice Act, 1984**

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

**1. Section 1 of the *Courts of Justice Act, 1984*, being chapter 11, is repealed and the following substituted therefor:**

**1. In this Act,**

Definitions

“action” means a civil proceeding that is not an application and includes a proceeding commenced by,

- (a) claim,
- (b) statement of claim,
- (c) notice of action,
- (d) counterclaim,
- (e) crossclaim,
- (f) third or subsequent party claim, or
- (g) divorce petition or counterpetition;

“application” means a civil proceeding that is commenced by notice of application or by application;

“defendant” means a person against whom an action is commenced;

“hearing” includes a trial;

“motion” means a motion in a proceeding or an intended proceeding;

“order” includes a judgment or decree;



“plaintiff” means a person who commences an action;

“region” means a region prescribed under section 92a. 1984, c. 11, s. 1, *amended*.

**2.** Parts I and II, Part III, as amended by the Statutes of Ontario, 1984, chapter 55, section 213, 1984, chapter 64, section 1, 1985, chapter 1, section 4, 1986, chapter 7, section 15 and 1987, chapter 1, sections 1, 2 and 3, Part IV, as amended by the Statutes of Ontario, 1984, chapter 55, section 213, 1984, chapter 64, sections 2, 3, 4 and 5 and 1987, chapter 1, sections 4, 5 and 6 and Part V, as amended by the Statutes of Ontario, 1984, chapter 64, sections 6 and 7, of the said Act are repealed and the following substituted therefor:

## PART I

### COURT OF APPEAL FOR ONTARIO

Court of  
Appeal

**2.—**(1) The branch of the Supreme Court of Ontario named the Court of Appeal for Ontario is continued as a superior court of record named the Court of Appeal for Ontario.

Idem

(2) In exercising its jurisdiction, the Court of Appeal has all the power and authority historically exercised by courts of common law and equity in England and Ontario. 1984, c. 11, s. 2, *amended*.

Composition  
of court

**3.—**(1) The Court of Appeal shall consist of,

- (a) the Chief Justice of Ontario, who shall be president of the court;
- (b) the Associate Chief Justice of Ontario; and
- (c) such number of other judges as is fixed under subsection (2), to be called justices of appeal. 1984, c. 11, s. 3 (1), *amended*.

Number of  
judges

(2) The Lieutenant Governor in Council may by regulation fix the number of judges of the Court of Appeal who are in addition to the Chief Justice and the Associate Chief Justice.

Idem

(3) A reduction in the number of judges does not affect appointments existing at the time of the reduction. *New*.

Additional  
judges

(4) There shall be such additional offices of judge of the Court of Appeal as are from time to time required, to be held by Chief Justices of Ontario and Associate Chief Justices of

Ontario who have elected under the *Judges Act* (Canada) to perform only the duties of a judge of the Court of Appeal. 1984, c. 11, s. 6 (1), *amended*. R.S.C. 1985, c. J-1

(5) There shall be such additional offices of supernumerary judge of the Court of Appeal as are from time to time required, to be held by judges of the Court of Appeal who have elected under the *Judges Act* (Canada) to hold office only as a supernumerary judge of the court. 1984, c. 11, s. 6 (3), *amended*. Super-numerary judges

4.—(1) The Chief Justice of Ontario, with the concurrence of the Chief Judge of the Ontario Court, may assign a judge of the Ontario Court (General Division) to perform the work of a judge of the Court of Appeal. 1984, c. 11, s. 9 (2), *amended*. Assignment of judges from General Division

(2) A judge of the General Division is, by virtue of his or her office, a judge of the Court of Appeal and has all the jurisdiction, power and authority of a judge of the Court of Appeal. 1984, c. 11, s. 8, *amended*. General Division judges

5.—(1) The Chief Justice of Ontario has general supervision and direction over the sittings of the Court of Appeal and the assignment of the judicial duties of the court. 1984, c. 11, s. 18 (5). Powers and duties of Chief Justice

(2) If the Chief Justice of Ontario is absent from Ontario or is for any reason unable to act, his or her powers and duties shall be exercised and performed by the Associate Chief Justice of Ontario. Absence of Chief Justice

(3) If the Chief Justice of Ontario and the Associate Chief Justice of Ontario are both absent from Ontario or for any reason unable to act, the powers and duties of the Chief Justice shall be exercised and performed by a judge of the Court of Appeal designated by the Chief Justice or Associate Chief Justice. 1984, c. 11, s. 3 (2), *amended*. Absence of Associate Chief Justice

6.—(1) An appeal lies to the Court of Appeal from, Court of Appeal jurisdiction

(a) an order of the Divisional Court, on a question that is not a question of fact alone, with leave as provided in the rules of court;

(b) a final order of a judge of the Ontario Court (General Division), except an order referred to in clause 18 (1) (a);

- (c) a certificate of assessment of costs issued in a proceeding in the Court of Appeal, on an issue in respect of which an objection was served under the rules of court. 1984, c. 11, s. 17 (1), *amended*.

Combining of  
appeals from  
other courts

- (2) The Court of Appeal has jurisdiction to hear and determine an appeal that lies to the Divisional Court or the Ontario Court (General Division) if an appeal in the same proceeding lies to and is taken to the Court of Appeal.

Idem

- (3) The Court of Appeal may, on motion, transfer an appeal that has already been commenced in the Divisional Court or the Ontario Court (General Division) to the Court of Appeal for the purpose of subsection (2). 1984, c. 11, s. 17 (2), *amended*.

Composition  
of court for  
hearings

- 7.—(1) A proceeding in the Court of Appeal shall be heard and determined by not fewer than three judges sitting together, and always by an uneven number of judges. 1984, c. 11, s. 18 (1), *amended*.

Idem,  
motions

- (2) A motion in the Court of Appeal and an appeal under clause 6 (1) (c) shall be heard and determined by one judge.

Idem

- (3) Subsection (2) does not apply to a motion for leave to appeal, a motion to quash an appeal or any other motion that is specified by the rules of court.

Idem

- (4) A judge assigned to hear and determine a motion may adjourn the motion to a panel of the Court of Appeal.

Idem

- (5) A panel of the Court of Appeal may, on motion, set aside or vary the decision of a judge who hears and determines a motion. 1984, c. 11, s. 18 (3), *amended*.

References to  
Court of  
Appeal

- 8.—(1) The Lieutenant Governor in Council may refer any question to the Court of Appeal for hearing and consideration.

Opinion of  
court

- (2) The court shall certify its opinion to the Lieutenant Governor in Council, accompanied by a statement of the reasons for it, and any judge who differs from the opinion may certify his or her opinion and reasons in the same manner.

Submissions  
by Attorney  
General

- (3) On the hearing of the question, the Attorney General of Ontario is entitled to make submissions to the court.

Idem

- (4) The Attorney General of Canada shall be notified and is entitled to make submissions to the court if the question relates to the constitutional validity or constitutional applica-



bility of an Act, or of a regulation or by-law made under an Act, of the Parliament of Canada or the Legislature.

(5) The court may direct that any person interested, or any one or more persons as representatives of a class of persons interested, be notified of the hearing and be entitled to make submissions to the court. Notice

(6) If an interest affected is not represented by counsel, the court may request counsel to argue on behalf of the interest and the reasonable expenses of counsel shall be paid by the Treasurer of Ontario. Appointment of counsel

(7) The opinion of the court shall be deemed to be a judgment of the court and an appeal lies from it as from a judgment in an action. 1984, c. 11, s. 19. Appeal

## PART II

### ONTARIO COURT OF JUSTICE

**9.—**(1) The Ontario Court of Justice is established. Ontario Court

(2) The Ontario Court shall consist of two divisions, the General Division and the Provincial Division. *New.* Divisions

### ONTARIO COURT (GENERAL DIVISION)

**10.—**(1) The branch of the Supreme Court of Ontario named the High Court of Justice for Ontario is continued as a superior court of record named the Ontario Court (General Division). General Division

(2) The General Division has all the jurisdiction, power and authority historically exercised by courts of common law and equity in England and Ontario. 1984, c. 11, s. 2 (1), *amended.* Idem

**11.—**(1) The General Division shall consist of, Composition of General Division

- (a) the Chief Judge of the Ontario Court, who shall be president of the Ontario Court;
- (b) a regional senior judge of the General Division for each region;
- (c) a senior judge of the General Division for the Unified Family Court; and



- (d) such number of judges of the General Division as is fixed under clause 52 (1) (a). 1984, c. 11, s. 4 (1), *amended*.

Additional  
judges

(2) There shall be such additional offices of judge of the General Division as are from time to time required, to be held by Chief Judges of the Ontario Court and regional senior judges of the General Division who have elected under the *Judges Act* (Canada) to perform only the duties of a judge of the Ontario Court. 1984, c. 11, s. 6 (1), *amended*.

R.S.C. 1985,  
c. J-1

Super-  
numerary  
judges

(3) There shall be such additional offices of supernumerary judge of the General Division as are from time to time required, to be held by judges of the General Division who have elected under the *Judges Act* (Canada) to hold office only as a supernumerary judge of that division. 1984, c. 11, s. 6 (3), *amended*.

Assignment  
of judges  
from Court  
of Appeal

**12.**—(1) The Chief Justice of Ontario, with the concurrence of the Chief Judge of the Ontario Court, may assign a judge of the Court of Appeal to perform the work of a judge of the General Division. 1984, c. 11, s. 9 (1), *amended*.

Court of  
Appeal  
judges

(2) A judge of the Court of Appeal is, by virtue of his or her office, a judge of the General Division and has all the jurisdiction, power and authority of a judge of the General Division. 1984, c. 11, s. 8, *amended*.

Powers and  
duties of  
Chief Judge  
of Ontario  
Court

**13.**—(1) The Chief Judge of the Ontario Court shall direct and supervise the sittings of the Ontario Court (General Division) and the assignment of its judicial duties.

Regional  
senior  
judges,  
General  
Division

(2) A regional senior judge of the General Division shall, subject to the authority of the Chief Judge of the Ontario Court, exercise the powers and perform the duties of the Chief Judge in respect of the General Division in his or her region.

Delegation

(3) A regional senior judge of the General Division may delegate to a judge of the General Division in his or her region the authority to exercise specified functions. *New*.

Absence of  
Chief Judge  
of Ontario  
Court

(4) If the Chief Judge of the Ontario Court is absent from Ontario or is for any reason unable to act, his or her powers and duties shall be exercised and performed by a regional senior judge of the General Division designated by the Chief Judge of the Ontario Court. 1984, c. 11, s. 4 (3), *amended*.

Absence of  
regional  
senior judge  
of General  
Division

(5) The powers and duties of a regional senior judge of the General Division who is absent from Ontario or is for any rea-

son unable to act shall be exercised and performed by a judge of the General Division designated by the Chief Judge of the Ontario Court.

↓  
(6) The Chief Judge of the Ontario Court may hold meetings with the regional senior judges of the General Division in order to consider any matters concerning sittings of the General Division and the assignment of its judicial duties. *New.*

Meetings  
with regional  
senior judges

14.—(1) The Chief Judge of the Ontario Court shall assign every judge of the General Division to a region.

↑  
Judges  
assigned to  
regions

(2) There shall be at least one judge of the General Division assigned to each county and district.

At least one  
judge in each  
county

(3) No judge of the General Division who was a judge of the High Court of Justice or the District Court of Ontario before this section comes into force shall be assigned without his or her consent to a region other than the region in which he or she resided immediately before this section comes into force.

High Court  
and District  
Court judges

(4) Subsections (1) to (3) do not prevent the temporary assignment of a judge to a location anywhere in Ontario. *New.*

Idem

15. A proceeding in the General Division shall be heard and determined by one judge of the General Division. 1984, c. 11, s. 14 (1), *amended*.

Composition  
of court for  
hearings

16. An appeal lies to the General Division from,

Appeals to  
General  
Division

(a) an interlocutory order of a master;

(b) a certificate of assessment of costs issued in a proceeding in the General Division, on an issue in respect of which an objection was served under the rules of court. 1984, c. 11, s. 13 (2), *amended*.

#### DIVISIONAL COURT

17.—(1) There shall be a branch of the General Division to be known as the Divisional Court consisting of the Chief Judge of the Ontario Court who shall be president of the court and such other judges of the General Division as the Chief Judge designates from time to time.

Divisional  
Court

(2) Every judge of the General Division is also a judge of the Divisional Court. 1984, c. 11, s. 5, *amended*.

Jurisdiction  
of judges

Divisional  
Court  
jurisdiction

**18.—(1)** An appeal lies to the Divisional Court from,

- (a) a final order of a judge of the General Division,
  - (i) for a single payment of not more than \$25,000, exclusive of costs,
  - (ii) for periodic payments that amount to not more than \$25,000, exclusive of costs, in the twelve months commencing on the date the first payment is due under the order,
  - (iii) dismissing a claim for an amount that is not more than the amount set out in subclause (i) or (ii), or
  - (iv) dismissing a claim for an amount that is more than the amount set out in subclause (i) or (ii) and in respect of which the judge indicates that if the claim had been allowed the amount awarded would have been not more than the amount set out in subclause (i) or (ii);
- (b) an interlocutory order of a judge of the General Division, with leave as provided in the rules of court;
- (c) a final order of a master. 1984, c. 11, s. 15 (1), *amended*.

Combining of  
appeals from  
General  
Division

(2) The Divisional Court has jurisdiction to hear and determine an appeal that lies to the General Division if an appeal in the same proceeding lies to and is taken to the Divisional Court.

Idem

(3) The Divisional Court may, on motion, transfer an appeal that has already been commenced in the General Division to the Divisional Court for the purpose of subsection (2). 1984, c. 11, s. 15 (2), *amended*.

Appeal from  
interlocutory  
orders

(4) No appeal lies from an interlocutory order of a judge of the General Division made on an appeal from an interlocutory order of the Provincial Division. 1984, c. 11, s. 36 (4), *amended*.

Appeals  
heard in  
regions

**19.—(1)** An appeal to the Divisional Court shall be heard in the region in which the order appealed from was made, unless the parties agree otherwise.



(2) Any other proceeding in the Divisional Court may be brought in any region. *New.* Other proceedings in any region

**20.**—(1) A proceeding in the Divisional Court shall be heard and determined by three judges sitting together. Composition of court for hearings

(2) A proceeding in the Divisional Court may be heard and determined by one judge where the proceeding, Idem

(a) is an appeal under clause 18 (1) (c);

(b) is an appeal under section 30 from a provincial judge or a deputy judge presiding over the Small Claims Court; or

(c) is in a matter that the Chief Judge of the Ontario Court or a judge designated by the Chief Judge is satisfied, from the nature of the issues involved and the necessity for expedition, can and ought to be heard and determined by one judge.

(3) A motion in the Divisional Court shall be heard and determined by one judge, unless otherwise provided by the rules of court. Idem, motions

(4) A judge assigned to hear and determine a motion may adjourn it to a panel of the Divisional Court. Idem

(5) A panel of the Divisional Court may, on motion, set aside or vary the decision of a judge who hears and determines a motion. 1984, c. 11, s. 16, *amended.* Idem

#### SMALL CLAIMS COURT

**21.**—(1) There shall be a branch of the General Division to be known as the Small Claims Court consisting of the Chief Judge of the Ontario Court who shall be president of the court and such other judges of the General Division as the Chief Judge designates from time to time. Small Claims Court

(2) Every judge of the General Division is also a judge of the Small Claims Court. *New.* Jurisdiction of judges

**22.**—(1) The Small Claims Court, Jurisdiction

(a) has jurisdiction in any action for the payment of money where the amount claimed does not exceed the prescribed amount exclusive of interest and costs; and



- (b) has jurisdiction in any action for the recovery of possession of personal property where the value of the property does not exceed the prescribed amount. 1984, c. 11, s. 78 (1), *amended*.

Transfer  
from General  
Division

(2) An action in the General Division may be transferred to the Small Claims Court by the local registrar of the General Division on requisition with the consent of all parties filed before the trial commences if,

- (a) the only claim is for the payment of money or the recovery of possession of personal property; and
- (b) the claim is within the jurisdiction of the Small Claims Court.

Idem

(3) An action transferred to the Small Claims Court shall be titled and continued as if it had been commenced in that court. 1984, c. 11, s. 84, *amended*.

Composition  
of court for  
hearings

23.—(1) A proceeding in the Small Claims Court shall be heard and determined by one judge of the General Division.

Provincial  
judge or  
deputy judge  
may preside

(2) A proceeding in the Small Claims Court may also be heard and determined by,

- (a) a provincial judge who was assigned to the Provincial Court (Civil Division) immediately before this section comes into force; or
- (b) a deputy judge appointed under section 31.

Where  
deputy judge  
not to  
preside

(3) A deputy judge shall not hear and determine an action,

- (a) for the payment of money in excess of the prescribed amount; or
- (b) for the recovery of possession of personal property exceeding the prescribed amount in value. *New*.

Summary  
hearings

24. The Small Claims Court shall hear and determine in a summary way all questions of law and fact and may make such order as is considered just and agreeable to good conscience. 1984, c. 11, s. 78 (3), *amended*.

Representation

25. A party may be represented in a proceeding in the Small Claims Court by counsel or an agent but the court may exclude from a hearing anyone, other than a barrister and solicitor qualified to practise in Ontario, appearing as an agent on behalf of a party if it finds that such person is not compe-

tent properly to represent the party or does not understand and comply at the hearing with the duties and responsibilities of an advocate. 1984, c. 11, s. 79, *amended*.

**26.**—(1) Subject to subsections (3) and (4), the Small Claims Court may admit as evidence at a hearing and act upon any oral testimony and any document or other thing so long as the evidence is relevant to the subject-matter of the proceeding, but the court may exclude anything unduly repetitious. Evidence

(2) Subsection (1) applies whether or not the evidence is given or proven under oath or affirmation or admissible as evidence in any other court. Idem

(3) Nothing is admissible in evidence at a hearing, Idem

(a) that would be inadmissible by reason of any privilege under the law of evidence; or

(b) that is inadmissible by any Act.

(4) Nothing in subsection (1) overrides the provisions of any Act expressly limiting the extent to or purposes for which any oral testimony, documents or things may be admitted or used in evidence in any proceeding. Conflicts

(5) A copy of a document or any other thing may be admitted as evidence at a hearing if the presiding judge is satisfied as to its authenticity. 1984, c. 11, s. 80, *amended*. Copies

**27.** The Small Claims Court may order the times and the proportions in which money payable under an order of the court shall be paid. 1984, c. 11, s. 81, *amended*. Instalment orders

**28.** An award of costs in the Small Claims Court, other than disbursements, shall not exceed 15 per cent of the amount claimed or the value of the property sought to be recovered unless the court considers it necessary in the interests of justice to penalize a party, counsel or agent for unreasonable behaviour in the proceeding. *New*. Limit on costs

**29.** Orders of the Small Claims Court shall be directed to a bailiff appointed under subsection 32 (1) for enforcement, unless otherwise provided by the rules of court. 1984, c. 11, s. 82, *amended*. Enforcement of orders

**30.** An appeal lies to the Divisional Court from a final order of the Small Claims Court in an action, Appeals

- (a) for the payment of money in excess of \$500, excluding costs; or
- (b) for the recovery of possession of personal property exceeding \$500 in value. 1984, c. 11, s. 83, *amended*.

Deputy  
judges

▼  
**31.**—(1) A regional senior judge of the General Division may, with the approval of the Attorney General, appoint a barrister and solicitor to act as a deputy judge of the Small Claims Court for a term of three years.

Idem

(2) A regional senior judge of the General Division may renew the appointment of a deputy judge for one or more three-year terms.

Idem

(3) The appointment of a person who was a deputy judge immediately before this section comes into force is deemed to be renewed under subsection (2) on the day this section comes into force. *New*. ▲

Clerk and  
bailiff of  
Small Claims  
Court

**32.**—(1) There shall be a clerk and one or more bailiffs for each division of the Small Claims Court who shall be appointed by the Lieutenant Governor in Council.

Idem

(2) With the approval of the Deputy Attorney General or the person designated by the Deputy Attorney General, every clerk and bailiff of the Small Claims Court in a division that is not designated under clause 52 (1) (g) may appoint in writing a deputy who may exercise and perform all the powers and duties of the clerk or bailiff.

Referee

(3) The Lieutenant Governor in Council may appoint a referee for a division of the Small Claims Court. 1984, c. 11, s. 86 (4, 5), *amended*.

#### PROVINCIAL DIVISION

Provincial  
Division

**33.** The Provincial Court (Criminal Division), the Provincial Court (Family Division) and the Provincial Offences Court are amalgamated and continued as a court of record named the Ontario Court (Provincial Division). *New*.

Composition  
of Provincial  
Division

**34.** The Provincial Division shall consist of,

- (a) the Chief Judge of the Provincial Division appointed under subsection 41 (3), who shall be president of the Provincial Division;



(b) a regional senior judge of the Provincial Division appointed under subsection 41 (4) for each region; and

(c) such provincial judges as are appointed under subsection 41 (1). *New.*

**35.—**(1) The Chief Judge of the Provincial Division shall direct and supervise the sittings of the Provincial Division and the assignment of its judicial duties. 1984, c. 11, s. 63 (5), *amended.*

Powers and duties of Chief Judge of Provincial Division

(2) A regional senior judge of the Provincial Division shall, subject to the authority of the Chief Judge of the Provincial Division, exercise the powers and perform the duties of the Chief Judge of the Provincial Division in his or her region.

Regional senior judges, Provincial Division

(3) A regional senior judge of the Provincial Division may delegate to a judge of the Provincial Division in his or her region the authority to exercise specified functions. *New.*

Delegation

(4) If the Chief Judge of the Provincial Division is absent from Ontario or is for any reason unable to act, his or her powers and duties shall be exercised and performed by a regional senior judge of the Provincial Division designated by the Chief Judge of the Provincial Division. 1984, c. 11, s. 63 (7), *amended.*

Absence of Chief Judge of Provincial Division

(5) The powers and duties of a regional senior judge of the Provincial Division who is absent from Ontario or is for any reason unable to act shall be exercised and performed by a judge of the Provincial Division designated by the Chief Judge of the Provincial Division.

Absence of regional senior judge of Provincial Division

(6) The Chief Judge of the Provincial Division may hold meetings with the regional senior judges of the Provincial Division in order to consider any matters concerning sittings of the Provincial Division and the assignment of its judicial duties. *New.*

Meetings with regional senior judges

**36.—**(1) The Chief Judge of the Ontario Court (Provincial Division) shall assign every provincial judge to a region.

Judges assigned to regions

(2) Subsection (1) does not prevent the temporary assignment of a provincial judge to a location anywhere in Ontario. *New.*

Idem

**37.—**(1) A provincial judge has the power and authority of two or more justices of the peace when sitting in the Provincial Division and shall exercise the powers and perform

Criminal jurisdiction



the duties that any Act of the Parliament of Canada confers on a provincial court judge when sitting in the Provincial Division. 1984, c. 11, s. 67 (1), *amended*.

Provincial  
offences and  
family  
jurisdiction  
R.S.O. 1980,  
c. 400  
1986, c. 4  
R.S.O. 1980,  
c. 68  
1984, c. 55

(2) The Provincial Division shall perform any function assigned to it by or under the *Provincial Offences Act*, the *Family Law Act*, 1986, the *Children's Law Reform Act*, the *Child and Family Services Act*, 1984 or any other Act. 1984, c. 11, s. 69, s. 75 (1) (a), (k), *amended*.

Youth court  
jurisdiction  
R.S.C. 1985,  
c. Y-1

(3) The Provincial Division is a youth court for the purposes of the *Young Offenders Act* (Canada). 1984, c. 11, s. 67 (2), s. 75 (1) (b), *amended*.

Judge to  
preside

**38.**—(1) A proceeding in the Provincial Division shall be heard and determined by one judge of the Provincial Division. 1984, c. 11, s. 66 (2), s. 74 (2), *amended*.

Justice of the  
peace may  
preside  
R.S.O. 1980,  
c. 400

(2) A justice of the peace may preside over the Provincial Division in a proceeding under the *Provincial Offences Act*. 1984, c. 11, s. 68 (2), *amended*.

Appeals

**39.**—(1) If no provision is made concerning an appeal from an order of the Provincial Division, an appeal lies to the General Division.

Exception  
R.S.C. 1985,  
c. C-46

(2) Subsection (1) does not apply to a proceeding under the *Criminal Code* (Canada) or the *Provincial Offences Act*. 1987, c. 1, s. 6, *amended*.

Penalty for  
disturbance  
outside  
courtroom

**40.** Any person who knowingly disturbs or interferes with a proceeding in the Provincial Division without reasonable justification while outside the courtroom is guilty of an offence and on conviction is liable to a fine of not more than \$1,000 or to imprisonment for a term of not more than thirty days, or to both. 1984, c. 11, s. 72, *amended*.

#### PROVINCIAL JUDGES

Appointment  
of provincial  
judges

**41.**—(1) The Lieutenant Governor in Council, on the recommendation of the Attorney General, may appoint such provincial judges as are considered necessary.

Qualifications

(2) No person shall be appointed as a provincial judge unless he or she has been a member of the bar of one of the provinces of Canada for at least ten years. 1984, c. 11, s. 52.

(3) The Lieutenant Governor in Council may appoint a provincial judge as Chief Judge of the Provincial Division. 1984, c. 11, s. 63 (1), *amended*. Chief Judge

(4) The Lieutenant Governor in Council may appoint a provincial judge to be the regional senior judge of the Provincial Division for each region. Regional senior judges

(5) The Chief Judge of the Provincial Division and the regional senior judges of the Provincial Division shall hold office for five years. Term of office

(6) If a successor is not appointed within five years, the Chief Judge or a regional senior judge shall continue in office until the successor is appointed, but in no case shall the Chief Judge or regional senior judge hold office for more than seven years. Idem

(7) A Chief Judge or a regional senior judge whose term of office expires under subsection (5) or (6) shall continue to hold the office of provincial judge and is entitled to an annual salary equal to the greater of, Former Chief Judge, etc.

(a) the current annual salary of a provincial judge; or

(b) the annual salary he or she received immediately before ceasing to be Chief Judge or regional senior judge.

(8) A Chief Judge or regional senior judge whose term of office expires under subsection (5) or (6) shall not be reappointed to the same position. *New*. Chief Judge, etc., not to be reappointed

**42.—**(1) A provincial judge shall devote his or her whole time to the performance of his or her duties as a judge, except as authorized by the Lieutenant Governor in Council. Other employment

(2) Despite subsection (1), a provincial judge who, before the 1st day of January, 1985, had the consent of the Attorney General to act as an arbitrator or conciliator may continue to so act. 1984, c. 11, s. 53, *amended*. Idem

**43.—**(1) Every provincial judge shall retire upon attaining the age of sixty-five years. Retirement

(2) Despite subsection (1), a provincial judge appointed as a full-time magistrate, judge of a juvenile and family court or master before the 2nd day of December, 1968 shall retire upon attaining the age of seventy years. Idem

Continuation  
of judges in  
office

(3) A judge who has attained the age of sixty-five years may, subject to the annual approval of the Chief Judge of the Provincial Division, continue in office as a full-time or part-time judge until he or she attains the age of seventy years.

Idem

(4) A judge who has attained the age of seventy years may, subject to the annual approval of the Judicial Council, continue in office as a full-time or part-time judge until he or she has attained the age of seventy-five years.

Continuation  
of regional  
senior judge  
in office

(5) Subject to subsections 41 (5) and (6), a regional senior judge of the Provincial Division who is in office upon attaining the age of sixty-five years may, subject to the annual approval of the Chief Judge of the Provincial Division, continue in that office until he or she has attained the age of seventy years.

Idem


(6) Subject to subsections 41 (5) and (6), a regional senior judge of the Provincial Division who is in office upon attaining the age of seventy years may, subject to the annual approval of the Judicial Council, continue in that office until he or she has attained the age of seventy-five years.



Continuation  
of  
Co-ordinator  
in office  
1989, c. 46

(7) Subject to subsections 13 (2) and (3) of the *Justices of the Peace Act, 1989*, if the Co-ordinator of Justices of the Peace is in office upon attaining the age of sixty-five years, he or she may, subject to the annual approval of the Chief Judge of the Provincial Division, continue in that office until he or she has attained the age of seventy years.

Idem

(8) Subject to subsections 13 (2) and (3) of the *Justices of the Peace Act, 1989*, if the Co-ordinator of Justices of the Peace is in office upon attaining the age of seventy years, he or she may, subject to the annual approval of the Judicial Council, continue in that office until he or she has attained the age of seventy-five years. *New.* 

Continuation  
in office of  
Chief Judge  
of Provincial  
Division

(9) Subject to subsections 41 (5) and (6), if the Chief Judge of the Provincial Division is in office upon attaining the age for retirement under subsection (1) or (2), he or she may, subject to the annual approval of the Judicial Council, continue in that office until he or she has attained the age of seventy-five years. 1984, c. 11, s. 54, *amended*.

Resignation  
of judge

**44.**—(1) A provincial judge may at any time resign from his or her office by delivering a signed letter of resignation to the Attorney General.

Resignation  
as Chief  
Judge, etc.

(2) A Chief Judge or a regional senior judge may, before the expiry of his or her term of office under subsection 41 (5)



or (6), elect to hold the office of a provincial judge only, by delivering a signed letter to that effect to the Attorney General.

➔ (3) The Co-ordinator of Justices of the Peace may, before the expiry of his or her term of office under subsection 13 (2) or (3) of the *Justices of the Peace Act, 1989*, elect to hold the office of a provincial judge only, by delivering a signed letter to that effect to the Attorney General. *New.* ➔

Resignation  
of  
Co-ordinator  
1989, c. 46

(4) A resignation or election under this section takes effect on the day the letter is delivered to the Attorney General or, if the letter specifies a later day, on that day. 1984, c. 11, s. 55, s. 65, *amended.*

Effective  
date

**45.—**(1) A provincial judge may be removed from office before attaining retirement age only if,

Removal for  
cause

- (a) a complaint regarding the judge has been made to the Judicial Council; and
- (b) the removal is recommended by an inquiry held under section 49 on the ground that the judge has become incapacitated or disabled from the due execution of his or her office by reason of,
  - (i) infirmity,
  - (ii) conduct that is incompatible with the execution of his or her office, or
  - (iii) having failed to perform the duties of his or her office.

(2) An order removing a provincial judge from office under this section may be made by the Lieutenant Governor on the address of the Legislative Assembly. 1984, c. 11, s. 56, *amended.*

Order for  
removal

**46.—**(1) The Judicial Council for Provincial Judges is continued as the Ontario Judicial Council and shall be composed of,

Judicial  
Council

- (a) the Chief Justice of Ontario, who shall preside over the Ontario Judicial Council;
- (b) the Associate Chief Justice of Ontario;
- (c) the Chief Judge of the Ontario Court;



- (d) the Chief Judge of the Ontario Court (Provincial Division);
- (e) the Treasurer of The Law Society of Upper Canada; and
- (f) not more than two other persons appointed by the Lieutenant Governor in Council.

Quorum (2) A majority of members of the Judicial Council constitutes a quorum and is sufficient for the exercise of all the jurisdiction and powers of the Judicial Council.

Staff (3) Such officers and employees of the Judicial Council as  
R.S.O. 1980, are considered necessary may be appointed under the *Public*  
c. 418 *Service Act*.

Expert (4) The Judicial Council may engage persons, including  
assistance counsel, to assist it in its investigations. 1984, c. 11, s. 57,  
*amended*.

Transition (5) An investigation commenced by the Judicial Council before this section comes into force shall be continued by the Judicial Council as it was constituted before this section comes into force. *New*.

Functions **47.**—(1) The functions of the Judicial Council are,

- (a) to consider all proposed appointments of provincial judges and make a report on them to the Attorney General;
- (b) to receive and investigate complaints against provincial judges.

Liability for (2) No action or other proceeding for damages shall be  
damages instituted against the Judicial Council or any member or officer of it or any person acting under its authority for any act done in good faith in the execution or intended execution of its or his or her duty. 1984, c. 11, s. 58.

Investigation (48.)—(1) Where the Judicial Council receives a complaint  
of complaints against a provincial judge, it shall take such action to investigate the complaint as it considers advisable.

Referral to (2) The Judicial Council may transmit those complaints it  
Chief Judge considers appropriate,

- (a) concerning provincial judges to the Chief Judge of the Provincial Division; and

(b) concerning masters to the Chief Judge of the Ontario Court.

(3) The proceedings of the Judicial Council shall not be public, but it may inform the Attorney General respecting matters that it has investigated and the Attorney General may make public the fact that an investigation has been undertaken.

Proceedings  
not public

(4) The Judicial Council may order that information or documents relating to its proceedings not be published or disclosed except as required by law.

Prohibiting  
publication

(5) The Judicial Council has all the powers of a commission under Part II of the *Public Inquiries Act*, which Part applies to the investigation as if it were an inquiry under that Act.

Powers  
R.S.O. 1980,  
c. 411

(6) When the Judicial Council has dealt with a complaint regarding a provincial judge, it shall inform the following persons of its disposition of the complaint:

Notice of  
disposition

1. The person who made the complaint.
2. If the complaint was brought to the attention of the judge, the judge.

(7) The Judicial Council may report its opinion regarding the complaint to the Attorney General and may recommend,

Report and  
recommen-  
dations

- (a) that an inquiry be held under section 49;
- (b) that the judge be compensated for all or part of the costs incurred by the judge relating to the investigation.

(8) A copy of a report made under subsection (7) shall be given to the judge.

Copy to  
judge

(9) The Judicial Council shall not make a report under subsection (7) unless the judge was notified of the investigation and given an opportunity to be heard and to produce evidence on his or her behalf.

Right to be  
heard

(10) When the Judicial Council makes a report to the Attorney General under subsection (7), the Attorney General may make all or part of the report public, if he or she is of the opinion that it is in the public interest to do so. 1984, c. 11, s. 59, *amended*.

Publication  
of report

Inquiry

**49.**—(1) The Lieutenant Governor in Council may appoint a judge of the General Division to inquire into the question whether a provincial judge should be removed from office.

Powers  
R.S.O. 1980,  
c. 411

(2) The *Public Inquiries Act* applies to an inquiry under subsection (1).

Report

(3) The report of the inquiry may recommend,

- (a) that the judge be removed from office;
- (b) that the judge be compensated for all or part of the costs incurred by the judge relating to the inquiry.

Tabling of  
report

(4) The report of the inquiry shall be laid before the Legislative Assembly if it is in session or, if not, within fifteen days after the commencement of the next session. 1984, c. 11, s. 60, *amended*.

Provincial  
Judges  
Remuneration  
Commission

► **50.**—(1) The committee known as the Ontario Provincial Courts Committee is continued as the Provincial Judges Remuneration Commission.

Composition  
of  
Commission

(2) The Commission shall be composed of the following three members:

1. One appointed jointly by the associations representing provincial judges.
2. One appointed by the Lieutenant Governor in Council.
3. One, who shall head the Commission, appointed jointly by the bodies referred to in paragraphs 1 and 2.

Function

(3) The function of the Provincial Judges Remuneration Commission is to inquire into and make recommendations to the Lieutenant Governor in Council respecting any matter relating to the remuneration, allowances and benefits of provincial judges, including the matters referred to in clauses 52 (1) (b) and (c).

Annual  
report

(4) The Commission shall make an annual report of its activities to the Lieutenant Governor in Council.

Tabling of  
recommen-  
dations

(5) Recommendations of the Commission and its annual report shall be laid before the Legislative Assembly if it is in

session or, if not, within fifteen days of the commencement of the next session. 1984, c. 11, s. 88, *amended*.

#### MISCELLANEOUS

**51.**—(1) The judges of the Ontario Court of Justice shall meet at least once in each year, on a day fixed by the Chief Judge of the Ontario Court, in order to consider this Act, the rules of court and the administration of justice generally. Meeting of judges

(2) The judges shall report their recommendations to the Attorney General. 1984, c. 11, s. 10, *amended*. Idem

(3) The judges of the Ontario Court of Justice in each region shall meet at least once in each year, on a day fixed by the regional senior judge of the General Division, in order to consider this Act, the rules of court and the administration of justice in the region generally. Regional meeting of judges

(4) The judges shall report their recommendations to the Attorney General. *New*. Idem

**52.**—(1) The Lieutenant Governor in Council may make regulations, Regulations

(a) fixing the number of judges of the General Division who are in addition to the Chief Judge, the regional senior judges and the Senior Judge for the Unified Family Court;


(b) fixing the remuneration of provincial judges and masters;

(c) providing for the benefits to which provincial judges and masters are entitled, including,

(i) leave of absence and vacations,

(ii) sick leave credits and payments in respect of those credits,

(iii) pension benefits for provincial judges, masters and their surviving spouses and children;

(d) prescribing territorial divisions for the Small Claims Court; 

(e) prescribing the maximum amount of a claim in the Small Claims Court for the purposes of subsection 22 (1);



R.S.O. 1980,  
c. 418

(f) prescribing the maximum amount of a claim over which a deputy judge may preside for the purposes of subsection 23 (3);

(g) providing for the retention of fees by clerks, bailiffs and referees of the Small Claims Court who are not civil servants under the *Public Service Act* and designating divisions where clerks, bailiffs and referees of the Small Claims Court may be appointed to a position as a civil servant under that Act;

(h) prescribing the duties of clerks, bailiffs and referees of the Small Claims Court;

(i) prescribing for each region the minimum number of judges of the General Division and of the Provincial Division who are to be assigned to that region. 1984, c. 11, s. 4 (2), s. 20 (4), s. 87 (1), *amended*.

Idem

(2) A reduction in the number of judges of the General Division under clause (1) (a) does not affect appointments existing at the time of the reduction. 1984, c. 11, s. 4 (2), *amended*.

Contributions

(3) Regulations made under clause (1) (c) may require judges and masters to contribute from their salaries part of the costs of benefits and may fix the amount of the contributions.

Application  
of  
R.S.O. 1980,  
c. 419

(4) A regulation made under clause (1) (c) may modify or exclude the application of the *Public Service Superannuation Act*.

Application  
of regulations

(5) A regulation made under subsection (1) may be general or particular in its application. 1984, c. 11, s. 20 (5-7), s. 87 (2-4), *amended*.

### PART III

#### UNIFIED FAMILY COURT

Unified  
Family Court

**53.** The Unified Family Court is continued as a superior court of record in and for The Regional Municipality of Hamilton-Wentworth. 1984, c. 11, s. 38, *amended*.

Composition  
of court

**54.**—(1) The Unified Family Court shall be presided over by,

- (a) a judge of the Ontario Court (General Division) appointed as senior judge for the Unified Family Court; or
- (b) a judge of the Ontario Court (General Division),

who is authorized under subsection (3) to exercise the jurisdiction of a judge of the Ontario Court (Provincial Division).

(2) The senior judge for the Unified Family Court shall supervise and direct the sittings and the assignment of the judicial duties of the Unified Family Court.

Duties of senior judge

(3) The Lieutenant Governor in Council may authorize a judge of the General Division to exercise the jurisdiction of a judge of the Provincial Division.

Authority for Provincial Division matters

(4) A judge who may preside over the Unified Family Court shall exercise his or her jurisdiction as a judge of the General Division or a judge of the Provincial Division in the matters in which the General Division or the Provincial Division or a judge of one of them has jurisdiction under the statutory provisions set out in the Schedule to this Part. 1984, c. 11, s. 39; 1987, c. 1, s. 1, *amended*.

Exercise of existing jurisdiction

**55.**—(1) Proceedings taken in a court in The Regional Municipality of Hamilton-Wentworth under the statutory provisions set out in the Schedule to this Part, other than by way of appeal, shall be commenced and titled in the Unified Family Court and the jurisdiction of the court shall be exercised in the Unified Family Court.

Proceedings in Unified Family Court

(2) A motion for interim relief under the *Divorce Act, 1985* (Canada), the *Family Law Act, 1986* or the *Children's Law Reform Act* in a proceeding in the General Division shall be heard in the Unified Family Court if it is required or permitted to be heard in The Regional Municipality of Hamilton-Wentworth by the rules of court or an order of the court. 1984, c. 11, s. 40 (1, 2) *amended*.

Idem  
S.C. 1986, c. 4  
1986, c. 4  
R.S.O. 1980, c. 68

(3) All proceedings commenced in or transferred to the Unified Family Court shall be heard and determined without a jury. 1984, c. 11, s. 40 (4), *amended*.

No jury

**56.** Where a proceeding is commenced in the Unified Family Court in a matter over which jurisdiction may be exercised in the Unified Family Court and is combined with a related matter in the jurisdiction of the judge but respecting which jurisdiction may not be exercised in the Unified Family

Other jurisdiction

Court, the court may, with leave of the judge, hear and determine the combined matters. 1984, c. 11, s. 41, *amended*.

Orders of  
predecessor  
court

**57.**—(1) The Unified Family Court may hear and determine an application under an Act to discharge, vary or suspend an order made by the Provincial Court (Family Division) of the Judicial District of Hamilton-Wentworth.

Enforcement

(2) The Unified Family Court may enforce orders made by the Provincial Court (Family Division) of the Judicial District of Hamilton-Wentworth. 1984, c. 11, s. 42, *amended*.

Place where  
proceedings  
commenced

**58.**—(1) Subject to subsection (2), proceedings referred to in subsection 55 (1) may be commenced in the Unified Family Court where the applicant or the respondent resides in The Regional Municipality of Hamilton-Wentworth. 1984, c. 11, s. 44 (1), *amended*.

Idem,  
custody or  
access  
R.S.O. 1980,  
c. 68

(2) An application under Part III of the *Children's Law Reform Act* in respect of a child who ordinarily resides in The Regional Municipality of Hamilton-Wentworth may be commenced in the Unified Family Court. 1984, c. 11, s. 44 (2), *amended*.

Transfer to  
other court

(3) A judge who may preside over the Unified Family Court may, on motion, order that a proceeding commenced in the Unified Family Court be transferred to the appropriate court in a place where there is no Unified Family Court if, in the opinion of the judge, there is a preponderance of convenience for the matter to be dealt with by that court. 1984, c. 11, s. 44 (3).

Transfer  
from other  
court

(4) A judge of a court having jurisdiction in a proceeding under a statutory provision set out in the Schedule to this Part in an area other than The Regional Municipality of Hamilton-Wentworth may, on motion, order that the proceeding be transferred to the Unified Family Court if, in the opinion of the judge, there is a preponderance of convenience for the matter to be dealt with by that court. 1984, c. 11, s. 44 (4), *amended*.

Directions

(5) A judge making an order under subsection (3) or (4) may give such directions for the transfer as are considered just. 1984, c. 11, s. 44 (5).

Status of  
orders

**59.** An order of a judge presiding over the Unified Family Court made in the exercise of his or her jurisdiction as a judge of the Ontario Court (General Division) is an order of the General Division for all purposes. 1984, c. 11, s. 45, *amended*.



**60.**—(1) Subject to subsections (2) and (3), a provision for an appeal from an order made under the statutory provisions set out in the Schedule to this Part applies to an order when made in the exercise of the jurisdiction by a judge presiding over the Unified Family Court. Appeals

(2) Where an order made by the Unified Family Court under a statutory provision set out in the Schedule to this Part is within the jurisdiction of the Ontario Court (General Division) outside The Regional Municipality of Hamilton-Wentworth, the order shall, for the purposes of an appeal, be deemed to have been made by a judge of the General Division. 1984, c. 11, s. 46 (1, 2), *amended*. Idem

(3) A provision for an appeal to the Ontario Court (General Division) or a judge of it from an order made by the Unified Family Court under the statutory provisions set out in the Schedule to this Part shall be deemed to provide for an appeal to the Divisional Court. *New*. Idem

(4) Where no provision is made for an appeal from an order of a judge presiding over the Unified Family Court, an appeal lies, Idem

(a) to the Court of Appeal from a final order, except an order referred to in clause (b);

(b) to the Divisional Court from a final order,

(i) for a single payment of not more than \$25,000, exclusive of costs,

(ii) for periodic payments that amount to not more than \$25,000, exclusive of costs, in the twelve months commencing on the date the first payment is due under the order,

(iii) dismissing a claim for an amount that is not more than the amount set out in subclause (i) or (ii), or

(iv) dismissing a claim for an amount that is more than the amount set out in subclause (i) or (ii) and in respect of which the judge indicates that if the claim had been allowed the amount awarded would have been not more than the amount set out in subclause (i) or (ii); or



- (c) to the Divisional Court from an interlocutory order, with leave as provided in the rules of court. 1984, c. 11, s. 46 (4), *amended*.

Criminal  
jurisdiction

**61.**—(1) A judge presiding over the Unified Family Court has all the powers of a judge sitting in the Ontario Court (Provincial Division) for the purposes of proceedings under the *Criminal Code* (Canada).

R.S.C. 1985,  
c. C-46



Idem

(2) The Unified Family Court shall be deemed to be and shall sit as the Provincial Division,

- (a) for the purpose of dealing with young persons as defined in the *Provincial Offences Act*; and

R.S.O. 1980,  
c. 400

1986, c. 4

- (b) for the purpose of prosecutions under the *Family Law Act, 1986*, the *Children's Law Reform Act*, the *Minors' Protection Act* and Part III (Child Protection) and Part VII (Adoption) of the *Child and Family Services Act, 1984*.

R.S.O. 1980,  
cc. 68, 293  
1984, c. 55



Idem

(3) The Unified Family Court is a youth court for the purpose of the *Young Offenders Act* (Canada). 1984, c. 11, s. 47, *amended*.

R.S.C. 1985,  
c. Y-1

Conciliation  
service

**62.** A conciliation service may be established, maintained and operated as part of the Unified Family Court. 1984, c. 11, s. 49.

Rules

**63.**—(1) The Lieutenant Governor in Council may make rules for the Unified Family Court in relation to the practice and procedure of the court and may make rules for the court, even though they alter or conform to the substantive law, in relation to,

- (a) conduct of proceedings in the court;
- (b) joinder of claims and parties, and representation of parties;
- (c) commencement of proceedings and service of process in or outside Ontario;
- (d) discovery and other forms of disclosure before hearing, including their scope and their admissibility and use in a proceeding;
- (e) examination of witnesses in or out of court;
- (f) duties of clerks and other officers;

- (g) references of proceedings or issues in a proceeding and the powers of a person conducting a reference;
- (h) costs of proceedings;
- (i) enforcement of orders and process;
- (j) payment into and out of court;
- (k) any matter that is referred to in an Act as provided for by rules of court.

(2) Nothing in subsection (1) authorizes the making of rules that conflict with an Act, but rules may be made under subsection (1) supplementing the provisions of an Act in respect of practice and procedure. Idem

(3) The rules of court made under Part IV do not apply to proceedings in the Unified Family Court. 1984, c. 11, s. 51, *amended*. Idem

## SCHEDULE

Jurisdiction under the following statutory provisions:

	Statutes	Provisions
1.	Annulment of Marriages Act (Ontario) (Canada)	All
2.	Change of Name Act, 1986	All
3.	Child and Family Services Act, 1984	Parts III, VI and VII
4.	Children's Law Reform Act	All, except sections 60 and 61
5.	Divorce Act, 1985 (Canada)	All
6.	Education Act	Sections 29 and 30
7.	Family Law Act, 1986	All, except Part V
8.	Marriage Act	Sections 6 and 9
9.	Minors' Protection Act	Section 2
10.	Reciprocal Enforcement of Maintenance Orders Act, 1982	All
11.	Support and Custody Orders Enforcement Act, 1985	All
12.	Young Offenders Act (Canada)	All

## PART IV

## RULES OF COURT

Civil Rules  
Committee

**64.**—(1) The Civil Rules Committee is established and shall be composed of,

- (a) the Chief Justice of Ontario, the Associate Chief Justice of Ontario, the Chief Judge of the Ontario Court and the Chief Judge of the Ontario Court (Provincial Division);
- (b) one judge of the Court of Appeal, who shall be appointed by the Chief Justice of Ontario;
- (c) nine judges of the Ontario Court (General Division), who shall be appointed by the Chief Judge of the Ontario Court;
- (d) the Attorney General or a person designated by the Attorney General;
- (e) one law officer of the Crown, who shall be appointed by the Attorney General;
- (f) two persons employed in the administration of the courts, who shall be appointed by the Attorney General;
- (g) four barristers and solicitors, who shall be appointed by the Benchers of The Law Society of Upper Canada in convocation;
- (h) one barrister and solicitor, who shall be appointed by the Chief Justice of Ontario; and
- (i) four barristers and solicitors, who shall be appointed by the Chief Judge of the Ontario Court.

Idem

(2) The Chief Justice of Ontario shall preside over the Civil Rules Committee but, if the Chief Justice of Ontario is absent or so requests, another member designated by the Chief Justice of Ontario shall preside.

Tenure of  
office

(3) Each of the members of the Civil Rules Committee appointed under clauses (1) (b), (c), (e), (f), (g), (h) and (i) shall hold office for a period of three years and is eligible for reappointment.

(4) Where a vacancy occurs among the members appointed under clause (1) (b), (c), (e), (f), (g), (h) or (i), a new member similarly qualified may be appointed for the remainder of the unexpired term. Vacancies

(5) A majority of the members of the Civil Rules Committee constitutes a quorum. 1984, c. 11, s. 89, *amended*. Quorum

**65.**—(1) Subject to the approval of the Lieutenant Governor in Council, the Civil Rules Committee may make rules for the Court of Appeal and the Ontario Court (General Division) in relation to the practice and procedure of those courts in all civil proceedings, including family law proceedings. Civil Rules

(2) The Civil Rules Committee may make rules for the courts described in subsection (1), even though they alter or conform to the substantive law, in relation to, Idem

- (a) conduct of proceedings in the courts;
- (b) joinder of claims and parties, settlement of claims by or against persons under disability, whether or not a proceeding has been commenced in respect of the claim, the binding effect of orders and representation of parties;
- (c) commencement of proceedings, representation of parties by solicitors and service of process in or outside Ontario;
- (d) disposition of proceedings without a hearing and its effect and authorizing the Court of Appeal to determine in the first instance a special case arising in a proceeding commenced in the Ontario Court (General Division);
- (e) pleadings;
- (f) discovery and other forms of disclosure before hearing, including their scope and the admissibility and use of that discovery and disclosure in a proceeding;
- (g) examination of witnesses in or out of court;
- (h) jurisdiction of masters, including the conferral on masters of any jurisdiction of the Ontario Court (General Division), including jurisdiction under an Act, but not including the trial of actions or jurisdiction conferred by an Act on a judge;



- (i) jurisdiction and duties of officers;
- (j) motions and applications, including the hearing of motions in the absence of the public and prohibiting a party from making motions without leave;
- (k) preservation of rights of parties pending the outcome of litigation, including sale, recovery of possession or preservation of property;
- (l) interpleader;
- (m) preparation for trial and offers to settle and their legal consequences;
- (n) the mode and conduct of trials;
- (o) the appointment by the court of independent experts, their remuneration and the admissibility and use of their reports;
- (p) the discount rate to be used in determining the amount of an award in respect of future pecuniary damages;
- (q) references of proceedings or issues in a proceeding and the powers of a person conducting a reference;
- (r) costs of proceedings, including security for costs and a solicitor's liability for or disentitlement to costs;
- (s) enforcement of orders and process or obligations under the rules;
- (t) the time for and procedure on appeals and stays pending appeal;
- (u) payment into and out of court;
- (v) any matter that is referred to in an Act as provided for by rules of court.

Idem

(3) Nothing in subsection (1) or (2) authorizes the making of rules that conflict with an Act, but rules may be made under subsections (1) and (2) supplementing the provisions of an Act in respect of practice and procedure. 1984, c. 11, s. 90, *amended*.

Family Rules  
Committee

**66.**—(1) The Family Rules Committee is established and shall be composed of,

- (a) the Chief Justice of Ontario, the Associate Chief Justice of Ontario, the Chief Judge of the Ontario Court and the Chief Judge of the Ontario Court (Provincial Division);
- (b) the senior judge for the Unified Family Court;
- (c) one judge of the Court of Appeal, who shall be appointed by the Chief Justice of Ontario;
- (d) three judges of the Ontario Court (General Division), who shall be appointed by the Chief Judge of the Ontario Court;
- (e) four judges of the Ontario Court (Provincial Division), who shall be appointed by the Chief Judge of the Ontario Court (Provincial Division);
- (f) the Attorney General or a person designated by the Attorney General;
- (g) one law officer of the Crown, who shall be appointed by the Attorney General;
- (h) two persons employed in the administration of the courts, who shall be appointed by the Attorney General;
- (i) four barristers and solicitors, who shall be appointed by the Benchers of The Law Society of Upper Canada in convocation;
- (j) two barristers and solicitors, who shall be appointed by the Chief Judge of the Ontario Court; and
- (k) two barristers and solicitors, who shall be appointed by the Chief Judge of the Ontario Court (Provincial Division).

(2) The Chief Justice of Ontario shall preside over the Family Rules Committee but, if the Chief Justice of Ontario is absent or so requests, another member designated by the Chief Justice shall preside. Idem

(3) Each of the members of the Family Rules Committee appointed under clauses (1) (c), (d), (e), (g), (h), (i), (j) and (k) shall hold office for a period of three years and is eligible for reappointment. Tenure of office

## Vacancies

(4) Where a vacancy occurs among the members appointed under clause (1) (c), (d), (e), (g), (h), (i), (j) or (k), a new member similarly qualified may be appointed for the remainder of the unexpired term.

## Quorum

(5) A majority of the members of the Family Rules Committee constitutes a quorum. *New.*

## Family Rules

**67.**—(1) Subject to the approval of the Lieutenant Governor in Council, the Family Rules Committee may make rules for the Court of Appeal, the Ontario Court (General Division) and the Ontario Court (Provincial Division) in relation to the practice and procedure of those courts in proceedings under statutory provisions set out in the Schedule to Part III (Unified Family Court), except proceedings under the *Young Offenders Act* (Canada).

R.S.C. 1985,  
c. Y-1

## Idem

(2) Subsections 65 (2) and (3) apply with necessary modifications to the Family Rules Committee making rules for the courts described in subsection (1).

May modify  
civil rules

(3) The rules made by the Family Rules Committee may adopt, modify or exclude the rules made by the Civil Rules Committee.


Rules for  
*Young  
Offenders Act*

(4) Subject to the approval of the Lieutenant Governor in Council, the Family Rules Committee may prepare rules for the purpose of section 68 of the *Young Offenders Act* (Canada) for consideration by the Ontario Court (Provincial Division). *New.*

Criminal  
Rules  
Committee

**68.**—(1) The Criminal Rules Committee is established and shall be composed of,

- (a) the Chief Justice of Ontario, the Associate Chief Justice of Ontario, the Chief Judge of the Ontario Court and the Chief Judge of the Ontario Court (Provincial Division);
- (b) one judge of the Court of Appeal, who shall be appointed by the Chief Justice of Ontario;
- (c) three judges of the Ontario Court (General Division), who shall be appointed by the Chief Judge of the Ontario Court;
- (d) four judges of the Ontario Court (Provincial Division), who shall be appointed by the Chief Judge of the Ontario Court (Provincial Division);

- (e) the Co-ordinator of Justices of the Peace;   
 (f) the Attorney General or a person designated by the Attorney General;  
 (g) one law officer of the Crown, who shall be appointed by the Attorney General;  
 (h) three Crown attorneys, deputy Crown attorneys or assistant Crown attorneys, who shall be appointed by the Attorney General;  
 (i) two persons employed in the administration of the courts, who shall be appointed by the Attorney General;  
 (j) two barristers and solicitors, who shall be appointed by the Benchers of The Law Society of Upper Canada in convocation;  
 (k) one barrister and solicitor, who shall be appointed by the Chief Justice of Ontario;  
 (l) one barrister and solicitor, who shall be appointed by the Chief Judge of the Ontario Court; and  
 (m) one barrister and solicitor, who shall be appointed by the Chief Judge of the Ontario Court (Provincial Division).

(2) The Chief Justice of Ontario shall preside over the Criminal Rules Committee but, if the Chief Justice of Ontario is absent or so requests, another member designated by the Chief Justice of Ontario shall preside. Idem

(3) Each of the members of the Criminal Rules Committee appointed under clauses (1) (b), (c), (d), (e), (g), (h), (i), (j), (k), (l) and (m) shall hold office for a period of three years and is eligible for reappointment. Tenure of office

(4) Where a vacancy occurs among the members appointed under clause (1) (b), (c), (d), (e), (g), (h), (i), (j), (k), (l) or (m), a new member similarly qualified may be appointed for the remainder of the unexpired term. Vacancies

(5) A majority of the members of the Criminal Rules Committee constitutes a quorum. Quorum *New.*



Criminal  
Rules

R.S.C. 1985,  
c. C-46

**69.**—(1) Subject to the approval of the Lieutenant Governor in Council, the Criminal Rules Committee may prepare rules for the purposes of section 482 of the *Criminal Code* (Canada) for consideration by the Court of Appeal, the Ontario Court (General Division) and the Ontario Court (Provincial Division).

Provincial  
offences rules

R.S.O. 1980,  
c. 400

Idem

(2) Subject to the approval of the Lieutenant Governor in Council, the Criminal Rules Committee may make rules for the Court of Appeal, the Ontario Court (General Division) and the Ontario Court (Provincial Division) in relation to the practice and procedure of those courts in proceedings under the *Provincial Offences Act*. *New.*

(3) The Criminal Rules Committee may make rules under subsection (2),

- (a) regulating any matters relating to the practice and procedure of proceedings under the *Provincial Offences Act*;
- (b) prescribing forms;
- (c) regulating the duties of the employees of the courts;
- (d) prescribing and regulating the procedures under any Act that confers jurisdiction under the *Provincial Offences Act* on the Ontario Court (Provincial Division) or a judge or justice of the peace sitting in it;
- (e) prescribing any matter relating to proceedings under the *Provincial Offences Act* that is referred to in an Act as provided for by the rules of court. 1984, c. 11, s. 73 (3), *amended.*

**3. Sections 92 and 93 of the said Act are repealed and the following substituted therefor:**



Ontario  
Courts  
Management  
Committee

**92.**—(1) There shall be a committee, known as the Ontario Courts Management Committee, composed of,

- (a) the Chief Justice of Ontario, the Associate Chief Justice of Ontario, the Chief Judge of the Ontario Court and the Chief Judge of the Ontario Court (Provincial Division);
- (b) the Attorney General, the Deputy Attorney General, the Assistant Deputy Attorney General responsible for courts administration and the

Assistant Deputy Attorney General responsible for criminal law;

- (c) two barristers and solicitors appointed by the Benchers of the Law Society of Upper Canada in convocation and two barristers and solicitors appointed by the presidents of the county and district law associations; and
- (d) not more than four other persons, appointed by the Attorney General with the concurrence of,
  - (i) all of the judges mentioned in clause (a), and
  - (ii) all of the barristers and solicitors appointed under clause (c).

(2) The following persons shall preside over meetings of the Committee, by rotation at intervals fixed by the Committee: Who to  
preside

1. A judge mentioned in clause (1) (a) selected by the judges mentioned in that clause.
2. The Attorney General or a person mentioned in clause (1) (b) and designated by the Attorney General.
3. A barrister and solicitor appointed under clause (1) (c) selected by the barristers and solicitors appointed under that clause.
4. A person appointed under clause (1) (d) selected by the persons appointed under that clause.

(3) The function of the Committee is to consider and recommend to the appropriate authority policies and procedures to promote the better administration of justice and the effective use of resources, including judicial and other personnel, in the public interest. *New.* Function of  
Committee

**92a.**—(1) For judicial purposes, Ontario is divided into the regions prescribed under subsection (2). Regions for  
judicial  
purposes

(2) The Lieutenant Governor in Council may make regulations prescribing regions for the purpose of this Act. *New.* Regulations

**92b.**—(1) There shall be a committee in each region, known as the Regional Courts Management Committee, composed of, Regional  
Courts  
Management  
Committee

- (a) the regional senior judge of the Ontario Court (General Division) and the regional senior judge of the Ontario Court (Provincial Division);
- (b) the regional director of courts administration for the Ministry of the Attorney General and the regional director of Crown attorneys;
- (c) two barristers and solicitors appointed jointly by the presidents of the county and district law associations in the region; and
- (d) not more than two other persons, appointed by the Attorney General with the concurrence of,
  - (i) both of the judges mentioned in clause (a), and
  - (ii) both of the barristers and solicitors appointed under clause (c).

Who to  
preside

(2) The following persons shall preside over meetings of the Committee, by rotation at intervals fixed by the Committee:

- 1. A judge mentioned in clause (1) (a) selected by the judges mentioned in that clause.
- 2. An official mentioned in clause (1) (b) selected by the officials mentioned in that clause.
- 3. A barrister and solicitor appointed under clause (1) (c) selected by the barristers and solicitors appointed under that clause.
- 4. A person appointed under clause (1) (d) selected by the persons appointed under that clause.

Function of  
Committee



(3) The function of the Committee is to consider and recommend to the appropriate authority policies and procedures for the region to promote the better administration of justice and the effective use of resources, including judicial and other personnel, in the public interest.


Frequency of  
meetings


(4) The Committee shall meet at least four times each year.  
*New.* 

Powers of  
chief or  
regional  
senior judge


**93.**—(1) The powers and duties of a judge who has authority to supervise and direct the sittings and the assignment of the judicial duties of his or her court include the following:


- 
1. Determining the sittings of the court.
  2. Assigning judges to the sittings.
  3. Assigning cases to individual judges.
  4. Determining the sitting schedules and places of sittings for individual judges. 
  5. Determining the total annual, monthly and weekly workload of individual judges.
  6. Preparing trial lists and assigning courtrooms, to the extent necessary to control the determination of who is assigned to hear particular cases. 1984, c. 11, s. 93, *amended*.




(2) Subsection (1) applies with necessary modifications in respect of supervising and directing the sittings and assigning the judicial duties of masters. *New*.  Powers in respect of masters


**4. Section 94 of the said Act is amended by adding thereto the following subsections:**

(2) A power or duty given to a registrar, sheriff, court clerk, assessment officer or official examiner under an Act, regulation or rule of court may be exercised or performed by a person or class of persons to whom the power or duty has been assigned by the Deputy Attorney General or a person designated by the Deputy Attorney General.  Exercise of powers of registrar, sheriff, etc.

(3) Subsection (2) applies in respect of an Act, regulation or rule of court made under the authority of the Legislature or of the Parliament of Canada.  Idem

**5. The said Act is amended by adding thereto the following section:**

**95a.** Documents and other material that are no longer required in a court office shall be disposed of in accordance with the directions of the Deputy Attorney General, subject to the approval of,  Destruction of documents

- 
- (a) in the Court of Appeal, the Chief Justice of Ontario;
  - (b) in the Ontario Court (General Division), the Chief Judge of the Ontario Court;



(c) in the Ontario Court (Provincial Division), the Chief Judge of the Provincial Division; ▲

(d) in the Unified Family Court, the Senior Judge for the Unified Family Court. 1984, c. 11, s. 101 (4), *amended*.

**6. Section 98 of the said Act is repealed and the following substituted therefor:**

Liability of judges

**98.** Every judge of a court in Ontario and every master has the same immunity from liability as a judge of the Ontario Court (General Division).

**7. Section 99 of the said Act is repealed and the following substituted therefor:**

Compensation for statutory duties

**99.** Every judge who was a judge of the Supreme Court or of the District Court before this section comes into force shall be paid out of the Consolidated Revenue Fund the annual sum of \$3,000, payable quarterly, as compensation for the services the judge is called on to render by any Act of the Legislature in addition to his or her ordinary duties.

**8. Subsection 100 (1) of the said Act is amended by striking out "Supreme Court or the District Court" in the first and second lines and inserting in lieu thereof "Court of Appeal or the Ontario Court (General Division)".**

**9. The said Act is further amended by adding thereto the following sections:**

Judges' gowns

**100a.** The Lieutenant Governor in Council may make regulations respecting the form of the gown to be worn in court by all judges appointed after this section comes into force.

How judges to be addressed

**100b.—**(1) Every judge of the Ontario Court of Justice and the Unified Family Court may be addressed as "Your Honour" or as "Judge (*naming the judge*)".

Idem

(2) A judge appointed to the High Court of Justice before this section comes into force may elect to be addressed according to the practice in existence before this section comes into force.

**10. Section 101 of the said Act is repealed and the following substituted therefor:**

**101.**—(1) Every person who was a master of the Supreme Court before this section comes into force is a master of the Ontario Court (General Division). *New.*

Masters

(2) Every master has the jurisdiction conferred by the rules of court in proceedings in the General Division. 1984, c. 11, s. 20 (3).

Jurisdiction

(3) Sections 42 to 49 apply with necessary modifications to masters in the same manner as to provincial judges. 1984, c. 11, s. 20 (11), *amended.*

Application of ss. 42-49

(4) The right of a master to continue in office under subsection 43 (3) is subject to the approval of the Chief Judge of the Ontario Court and not of the Chief Judge of the Provincial Division. *New.*

Idem

**101a.**—(1) Money paid into the Ontario Court (General Division) shall be paid to the Accountant of the Ontario Court and such money and securities in which the money is invested are vested in the Accountant.

Money vested in Accountant

(2) Mortgages and other securities taken under an order of the Ontario Court (General Division) and instruments taken as security in respect of a proceeding in the Ontario Court (General Division) shall be taken in the name of the Accountant and shall be deposited in his or her office, except where an order provides otherwise.

Security held by Accountant

(3) The Accountant has no duty or obligation in respect of the instruments deposited under subsection (2) except as custodian of the instruments, unless an order of the court provides otherwise.

Idem

(4) The Provincial Auditor shall examine and report on the accounts and financial transactions of the Accountant. 1984, c. 11, s. 22, *amended.*

Audit by Provincial Auditor

**101b.**—(1) The finance committee is continued and shall be composed of three persons appointed by the Lieutenant Governor in Council.

Finance committee

(2) The finance committee has control and management of the money in the Ontario Court (General Division), the investment of the money and the securities in which it is invested.

Management of court funds

(3) Money that is available for investment shall be invested in investments in which the Treasurer of Ontario may invest

Investment of court funds

R.S.O. 1980,  
c. 161

public money under section 3 of the *Financial Administration Act*.

Employment  
of trust  
company

(4) The finance committee may employ a trust company to make the investments or act as custodian of the securities purchased as investments.

Interest

(5) The finance committee may provide for the payment of interest on money paid into the General Division and may fix the rate of interest so paid.

Reserve  
funds

(6) The finance committee may establish such reserve funds as it considers necessary. 1984, c. 11, s. 23, *amended*.

**11.** Subsection 102 (3) of the said Act is amended by striking out "Rules of Civil Procedure" in the third line and inserting in lieu thereof "rules of court".

**12.** Section 103 of the said Act is repealed and the following substituted therefor:

Assessment  
officers

**103.**—(1) The Lieutenant Governor in Council, on the recommendation of the Attorney General, may appoint assessment officers.

Idem

(2) Every master is an assessment officer.

Jurisdiction

(3) Every assessment officer has jurisdiction to assess costs in a proceeding in any court.

Appeal from  
assessment of  
costs before  
tribunal

(4) Where costs of a proceeding before a tribunal other than a court are to be assessed by an assessment officer,

(a) the rules of court governing the procedure on an assessment of costs apply with necessary modifications; and

(b) an appeal lies to the Ontario Court (General Division) from a certificate of assessment of the costs if an objection was served in respect of the issue appealed in accordance with the rules of court.

**13.**—(1) Subsection 104 (1) of the said Act is repealed.

(2) Subsection 104 (2) of the said Act is amended by striking out "additional" in the second line.

**14.**—(1) Subsection 108 (2) of the said Act is amended by striking out "and" where it occurs the second time in the third



line and by inserting after "hearing)" in the fourth line "and 153a (where procedures not provided)".

(2) Subsection 108 (3) of the said Act, as amended by the Statutes of Ontario, 1989, chapter 24, section 4, is repealed and the following substituted therefor:

(3) Sections 122 (constitutional questions), 135, 136 (language of proceedings), 142 (judge sitting on appeal), 146 (prohibition against photography at court hearings), 152a (arrest and committal warrants enforceable by police) and 153a (where procedures not provided) also apply to proceedings under the *Provincial Offences Act* and, for the purpose, a reference in one of those sections to a judge includes a justice of the peace presiding in the Ontario Court (Provincial Division).

Application  
to provincial  
offences

R.S.O. 1980,  
c. 400

15. Subsection 109 (3) of the said Act is repealed and the following substituted therefor:

(3) Only the Court of Appeal, the Unified Family Court and the Ontario Court (General Division), may grant equitable relief, unless otherwise provided.

Jurisdiction  
for equitable  
relief

16. Section 110 of the said Act is amended by striking out "Supreme Court, the District Court and the Unified Family Court" in the first and second lines and inserting in lieu thereof "Court of Appeal, the Unified Family Court and the Ontario Court (General Division)".

17. Subsection 114 (1) of the said Act is amended by striking out "Supreme Court, the District Court or the Unified Family Court" in the first and second lines and inserting in lieu thereof "Unified Family Court or the Ontario Court (General Division)".

18.—(1) Subsection 118 (1) is repealed and the following substituted therefor:

(1) In this section, "health practitioner" means a person licensed to practise medicine or dentistry in Ontario or any other jurisdiction, a psychologist registered under the *Psychologists Registration Act* or a person certified or registered as a psychologist by another jurisdiction.

"health  
practitioner"  
defined  
R.S.O. 1980,  
c. 404

(2) Subsection 118 (2) of the said Act is amended by striking out "medical" in the fourth line and inserting in lieu thereof "health".



(3) Subsection 118 (5) of the said Act is amended by striking out “medical” in the second line and inserting in lieu thereof “health”.

**19.** Subsections 120 (2) and (3) of the said Act are repealed and the following substituted therefor:

Transfer  
from Small  
Claims Court

(2) A proceeding in the Small Claims Court shall not be transferred under clause (1) (d) to the Ontario Court (General Division) without the consent of the plaintiff in the proceeding in the Small Claims Court.

Idem

(2a) A proceeding in the Small Claims Court shall not be required under subclause (1) (e) (ii) to be asserted by way of counterclaim in a proceeding in the Ontario Court (General Division) without the consent of the plaintiff in the proceeding in the Small Claims Court.

Motions

(3) The motion shall be made to a judge of the Ontario Court (General Division).

**20.**—(1) Subsection 121 (1) of the said Act is amended by striking out “a Supreme Court or District Court action” in the first line and inserting in lieu thereof “an action in the Ontario Court (General Division) that is not in the Small Claims Court”.

(2) Subsection 121 (2) of the said Act is amended by striking out “Actions in which a claim is made for any of the following kinds of relief shall be heard without a jury:” in the first and second lines and inserting in lieu thereof “The issues of fact and the assessment of damages in an action shall be tried without a jury in respect of a claim for any of the following kinds of relief:”.

(3) Paragraph 3 of the said subsection 121 (2) is amended by striking out “*Family Law Reform Act*” in the first and second lines and inserting in lieu thereof “*Family Law Act, 1986*”.

**21.** Subsection 122 (2) of the said Act is amended by striking out “Rules of Civil Procedure” in the second line and inserting in lieu thereof “rules of court”.

**22.** Subsection 124 (2) of the said Act is repealed and the following substituted therefor:

Idem

(2) Mutual debts may be set off against each other even if they are of a different nature.

**23.** Clause 129 (b) of the said Act is amended by striking out "*Family Law Reform Act*" in the first line and inserting in lieu thereof "*Family Law Act, 1986*".

**24.—**(1) Clause 133 (1) (a) of the said Act is amended by striking out "the" in the first line and inserting in lieu thereof "a".

(2) Clause 133 (1) (b) of the said Act is amended by striking out "local judge or".

**25.—**(1) Subclause 136 (1) (a) (ii) of the said Act is repealed and the following substituted therefor:

(ii) the area that comprised the County of Welland as it existed on the 31st day of December, 1969,

(iia) The Regional Municipality of Ottawa-Carleton,

(iib) The Municipality of Metropolitan Toronto.

(2) Subsection 136 (6) of the said Act is amended by striking out "Provincial Court (Family Division) or the Provincial Court (Civil Division)" in the second and third lines and inserting in lieu thereof "Ontario Court (Provincial Division) or the Small Claims Court".

(3) Subsection 136 (7) of the said Act is amended by striking out "in the Provincial Offences Court where it is" in the second and third lines and inserting in lieu thereof "under the *Provincial Offences Act* in".

**26.** Subsection 137 (2) of the said Act is amended by striking out "the Registrar of the Supreme Court" in the first and second lines and inserting in lieu thereof "a person designated by the Deputy Attorney General".

**27.—**(1) Subsection 150 (1) of the said Act is amended by striking out "Supreme Court" in the first line and in the last line and inserting in lieu thereof in each instance "Ontario Court (General Division)".

(2) Subsection 150 (3) of the said Act is amended by striking out "Supreme Court" in the fourth line and inserting in lieu thereof "Ontario Court (General Division)".

**28.** The said Act is further amended by adding thereto the following sections:

Civil orders  
directed to  
sheriffs

**150a.**—(1) Unless an Act provides otherwise, orders of a court arising out of a civil proceeding and enforceable in Ontario shall be directed to a sheriff for enforcement.

Police to  
assist sheriff

(2) A sheriff who believes that the execution of an order may give rise to a breach of the peace may require a police officer to accompany the sheriff and assist in the execution of the order.

. . . . .

Where  
procedures  
not provided

**153a.** Jurisdiction conferred on a court, a judge or a justice of the peace shall, in the absence of express provision for procedures for its exercise in any Act, regulation or rule, be exercised in any manner consistent with the due administration of justice. 1984, c. 11, s. 62, *amended*.

**29.** Sections 157 and 158 of the said Act are repealed and the following substituted therefor:

Continuation  
of  
proceedings  
in former  
courts

**157.** A proceeding pending in a court set out in column 1 of the Table when this section comes into force is continued in the court set out opposite to it in column 2.

TABLE

	<i>Column 1</i>	<i>Column 2</i>
1.	High Court of Justice	Ontario Court (General Division)
2.	District Court	Ontario Court (General Division)
3.	surrogate court	Ontario Court (General Division)
4.	Provincial Court (Criminal Division)	Ontario Court (Provincial Division)
5.	Provincial Court (Family Division)	Ontario Court (Provincial Division)
6.	Provincial Offences Court	Ontario Court (Provincial Division)
7.	Provincial Court (Civil Division)	Small Claims Court

Former Chief  
Judge, etc.

**158.**—(1) A provincial judge who was a Chief Judge Associate Chief Judge or senior judge of the Provincial Court (Criminal Division), the Provincial Court (Family Division) or the Provincial Court (Civil Division) immediately before this section comes into force shall continue to hold the office of provincial judge, is entitled to retain the title of Chief Judge Associate Chief Judge or senior judge, as the case may be and is entitled to an annual salary equal to the greater of,



- (a) the current annual salary of a provincial judge; or
- (b) the annual salary the judge received immediately before this section comes into force.

(2) A master who was the Senior Master immediately before this section comes into force shall continue to hold the office of master, is entitled to retain the title of Senior Master and is entitled to an annual salary equal to the greater of,

Former  
Senior  
Master

- (a) the current annual salary of a master; or
- (b) the annual salary the master received immediately before this section comes into force.

**158a.—(1)** A document filed in court that refers to a court set out in column 1 of the Table to section 160 is not by that reason invalid and shall be deemed to refer to the court set out opposite to it in column 2.

Documents  
filed

(2) Subsection (1) is repealed one year after this section comes into force.

Subsection  
repealed

**30. Section 159 of the said Act is repealed and the following substituted therefor:**

**159.** Where, by an Act or regulation, jurisdiction is conferred on a particular court set out in column 1 of the Table, the jurisdiction shall be deemed to be conferred on the corresponding court set out in column 2 sitting in the county or district of the court named.

Reference to  
territorial  
jurisdiction

TABLE

<i>Column 1</i>	<i>Column 2</i>
1. county or district court	Ontario Court (General Division)
2. surrogate court	Ontario Court (General Division)
3. provincial court (family division)	Ontario Court (Provincial Division)
4. provincial offences court	Ontario Court (Provincial Division)
5. small claims court	Small Claims Court

**31. Section 160 of the said Act is repealed and the following substituted therefor:**



References to  
courts

**160.** A reference in an Act, rule or regulation to a court set out in column 1 of the Table is deemed to be a reference to the court set out opposite to it in column 2.

TABLE

	<i>Column 1</i>	<i>Column 2</i>
1.	Supreme Court	Ontario Court (General Division)
2.	High Court of Justice	Ontario Court (General Division)
3.	county or district court	Ontario Court (General Division)
4.	District Court	Ontario Court (General Division)
5.	surrogate court	Ontario Court (General Division)
6.	small claims court	Small Claims Court
7.	Provincial Court (Civil Division)	Small Claims Court
8.	provincial court (criminal division)	Ontario Court (Provincial Division)
9.	Provincial Court (Criminal Division)	Ontario Court (Provincial Division)
10.	provincial court (family division)	Ontario Court (Provincial Division)
11.	Provincial Court (Family Division)	Ontario Court (Provincial Division)
12.	provincial offences court	Ontario Court (Provincial Division)
13.	Provincial Offences Court	Ontario Court (Provincial Division)

Changes in  
terminology

**160a.**—(1) A reference in any Act, rule or regulation, or order or other court process, to a term set out in column 1 of the Table, or any form thereof, is deemed to refer to the corresponding term set out opposite thereto in column 2.

TABLE

	<i>Column 1</i>	<i>Column 2</i>
1.	Accountant of the Supreme Court	Accountant of the Ontario Court
2.	administrator <i>ad litem</i>	litigation administrator
3.	certificate of <i>lis pendens</i>	certificate of pending litigation
4.	conduct money	attendance money
5.	guardian <i>ad litem</i>	litigation guardian
6.	judicial district	county or district

7.	local judge of the High Court	judge of the Ontario Court (General Division)
8.	local judge of the Supreme Court	judge of the Ontario Court (General Division)
9.	next friend	litigation guardian
10.	originating motion	application
11.	originating notice	notice of application
12.	praecipe	requisition
13.	provisional judicial district	territorial district
14.	a registrar of a surrogate court	the local registrar of the Ontario Court (General Division)
15.	Rules of Civil Procedure	rules of court
16.	Rules Committee	applicable rules committee
17.	Rules Committee of the Supreme and District Courts	applicable rules committee
18.	Rules of Practice and Procedure of the Supreme Court of Ontario made by the Rules Committee	rules of court
19.	special examiner	official examiner
20.	Surrogate Clerk for Ontario	Estate Registrar for Ontario
21.	taxation of costs	assessment of costs
22.	taxing officer	assessment officer
23.	writ of <i>feri facias</i>	writ of seizure and sale
24.	writ of summons	statement of claim or notice of action

(2) A reference in any Act, rule or regulation to the surrogate registrar for a particular county or district is deemed to be a reference to the local registrar of the Ontario Court (General Division) for that county or district.

Idem,  
surrogate  
registrar for  
a county

(3) A reference in any Act, rule or regulation to the clerk of a county or district court of a particular county or district is deemed to be a reference to the local registrar of the Ontario Court (General Division) for that county or district.

Idem, clerk  
of a county

(4) A reference in any Act, rule or regulation to an order, direction or decision filed with the Registrar of the Supreme Court is deemed to be a reference to an order, direction or decision filed with the Ontario Court (General Division).

Idem, order  
filed with the  
Registrar

**160b.** Where an Act, rule or regulation provides that a document is to be filed with, certified to, forwarded to or transmitted to the Supreme Court or the Registrar of the Supreme Court for the purpose of an appeal to the Divisional

Documents  
filed for  
appeal to  
Divisional  
Court

Court, that document shall be filed with, certified to, forwarded to or transmitted to, as the case may be, the Divisional Court.

References to  
counties for  
judicial  
purposes

**160c.**—(1) A reference in this Act or any other Act, rule or regulation to a county or district for judicial purposes is deemed to be a reference to the corresponding area that, for municipal or territorial purposes, comprises the county, district, union of counties or regional, district or metropolitan municipality.

Separated  
municipalities

(2) For the purpose of subsection (1), every city, town and other municipality is united to and forms part of the county in which it is situate.

Exceptions

(3) Subsection (1) is subject to the following:

1. A reference in an Act or regulation to a county or district for judicial purposes is, in the case of The Regional Municipality of Haldimand-Norfolk, deemed to be a reference to the following areas:
  - i. All the area of the County of Haldimand as it existed on the 31st day of March, 1974.
  - ii. All the area of the County of Norfolk as it existed on the 31st day of March, 1974.
2. A reference in an Act or regulation to a county or district for judicial purposes is, in the case of The Regional Municipality of Niagara, deemed to be a reference to the following areas:
  - i. All the area of the County of Lincoln as it existed on the 31st day of December, 1969.
  - ii. All the area of the County of Welland as it existed on the 31st day of December, 1969.
3. A reference in an Act or regulation to a county or district for judicial purposes is, in the case of The Regional Municipality of Sudbury and the Territorial District of Sudbury, deemed to be a reference to all the area in The Regional Municipality of Sudbury and in the Territorial District of Sudbury.
4. A reference in an Act or regulation to a county or district for judicial purposes is, in the case of an area described below, deemed to be a reference to all the area in the areas described below:

- i. All the area in the County of Victoria.
- ii. All the area in the County of Haliburton.
- iii. All the area in any part of the townships of Sherborne, McClintock, Livingstone, Lawrence and Nightingale located in Algonquin Park, so long as the part remains part of Algonquin Park.

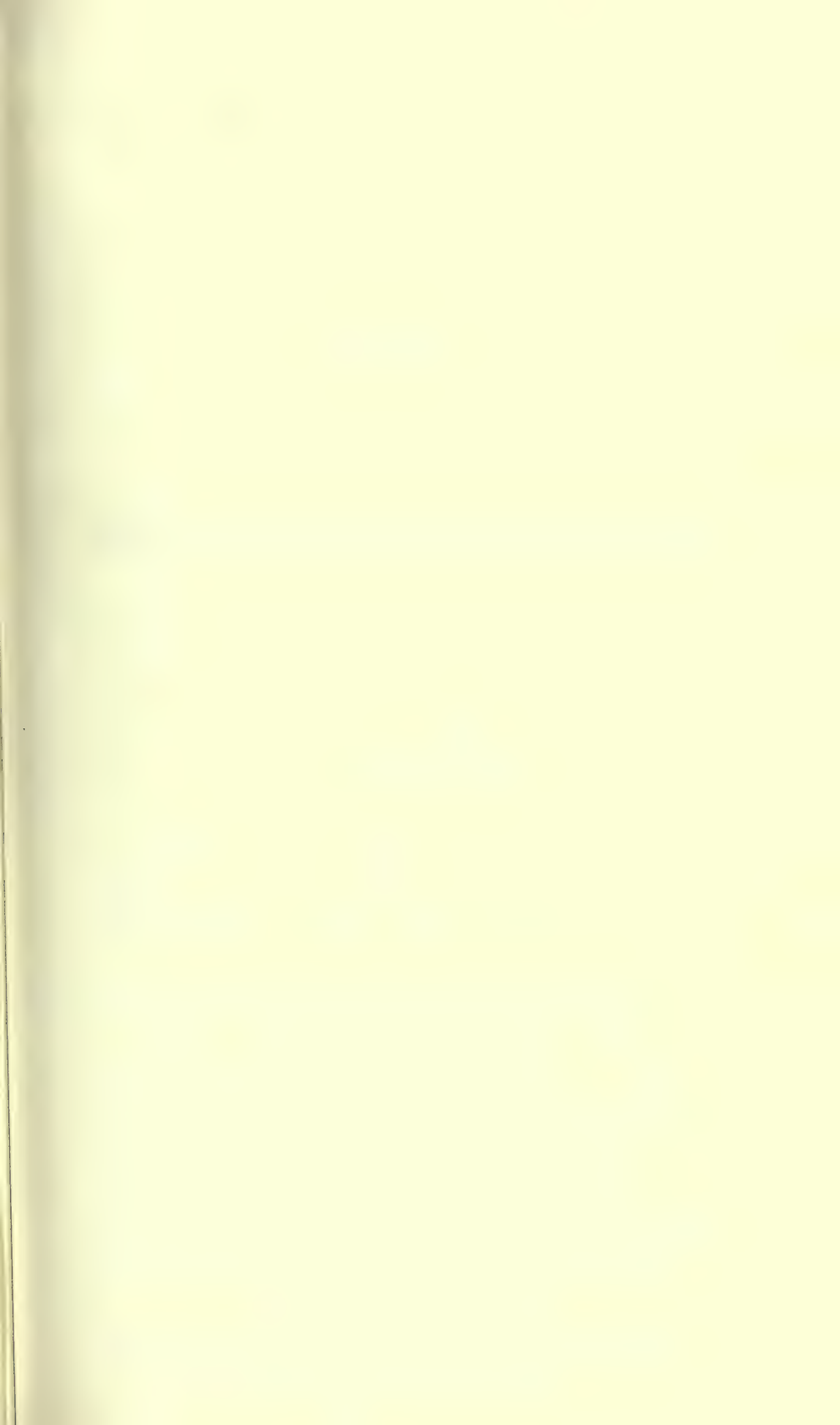
**32.** Section 212 of the said Act is repealed.

**33.** This Act comes into force on a day to be named by proclamation of the Lieutenant Governor. Commence-  
ment

**34.** The short title of this Act is the *Courts of Justice Amendment Act, 1989*. Short title









# Bill 2

## **An Act to amend the Courts of Justice Act, 1984**

The Hon. I. Scott

*Attorney General*

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*1st Reading*      May 1st, 1989

*2nd Reading*      June 14th, 1989

*3rd Reading*

*Royal Assent*

*(Reprinted as amended by the Committee of the Whole House)*

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## EXPLANATORY NOTES

The Bill substantially changes the structure of the Ontario courts.

The present structure of the courts is as follows:

1. The Supreme Court of Ontario has two branches, the Court of Appeal and the High Court of Justice. The Supreme Court is a superior court with civil and criminal jurisdiction whose judges are appointed by the federal government.
2. The District Court of Ontario has both civil and criminal jurisdiction but is not a superior court. Its civil jurisdiction is limited by the *Courts of Justice Act, 1984* to claims of less than \$25,000 unless both parties agree to let it hear a claim for a greater amount. Its judges are appointed by the federal government.
3. The Divisional Court is a division of the High Court that hears specified appeals assigned to it by statute and applications for judicial review of a decision of a board or agency. The judges of the High Court are the judges of the Divisional Court.
4. There are four courts presided over by provincial judges, the Provincial Court (Civil Division), the Provincial Court (Family Division), the Provincial Court (Criminal Division) and the Provincial Offences Court. The Provincial Offences Court is usually presided over by justices of the peace and the Provincial Court (Civil Division) is often presided over by part-time deputy judges.
5. The Unified Family Court is a specialized court for family law proceedings in The Regional Municipality of Hamilton-Wentworth. Its judges are appointed by the federal government and are also given the power of provincial judges for their work in the court.

The structure of the Ontario courts proposed by the Bill is as follows:

1. The Court of Appeal will be continued as the final court of appeal for the Province and will be separated from the High Court.
2. There will be a new court, to be called the Ontario Court of Justice, composed of two divisions, the General Division and the Provincial Division.
3. The Ontario Court (General Division) will combine the jurisdiction now exercised by the High Court, the District Court and the surrogate courts. The existing judges of those courts will all become judges of the Ontario Court (General Division). The General Division will be a superior court.
4. The Divisional Court will be continued with no change in its jurisdiction as a branch of the Ontario Court (General Division). All of the judges of the General Division will be judges of the Divisional Court.
5. The Small Claims Court will also be a branch of the Ontario Court (General Division). The monetary limit of the Small Claims Court will be prescribed by regulation. All of the judges of the General Division will be judges of the Small Claims Court. In addition, provincial judges who were formerly in the Provincial Court (Civil Division) will preside over matters in the Small Claims Court and deputy judges will be appointed for three-year renewable terms to preside over matters in the Small Claims Court that do not exceed a prescribed amount.
6. The Ontario Court (Provincial Division) combines the jurisdiction now exercised by the Provincial Court (Criminal Division), the Provincial Court (Family

Division) and the Provincial Offences Court. The existing judges of those courts will all become judges of the Ontario Court (Provincial Division).

7. The Unified Family Court is established as a superior court but is otherwise not changed.

A judge of the General Division will be appointed as Chief Justice of the Ontario Court to manage judicial resources for the General Division of the Ontario Court of Justice. A provincial judge will be appointed as Chief Judge of the Ontario Court (Provincial Division) to manage judicial resources for the Provincial Division.

The Province will be divided into regions for judicial purposes, with the number and area of the regions to be prescribed by regulation. A judge of the General Division will be appointed as regional senior judge of the General Division for each region to manage judicial resources for the General Division in the region, subject to the authority of the Chief Justice of the Ontario Court. A provincial judge will be appointed as regional senior judge of the Provincial Division for each region to manage judicial resources for the Provincial Division in the region, subject to the authority of the Chief Judge of the Ontario Court (Provincial Division).

The Chief Judge of the Ontario Court (Provincial Division) and the regional senior judges of the Provincial Division will be appointed to their administrative positions for five-year terms, after which they will return to being provincial judges.

The Ontario Courts Advisory Council will be replaced by the Ontario Courts Management Committee. In addition, each region will have a Regional Courts Management Committee consisting of the regional senior judges, the regional director of courts administration, the regional director of Crown attorneys and representatives of the regional bar and the public.

The Bill will also restructure rule-making for the courts. Part V of the existing Act establishes the Rules Committee of the Supreme and District Courts and provides for the making of rules of practice and procedure for civil proceedings in those courts. The Bill will establish three separate rules committees, the Civil Rules Committee, the Family Rules Committee and the Criminal Rules Committee, each to make rules in their respective areas.

Some of the other changes to the Act are as follows:

1. The number of judges of the Court of Appeal will be fixed by regulation rather than by statute.
2. Every judge of the General Division must be assigned to a particular region and there must be at least one judge of the General Division assigned to each county or district.
3. The judges of the Ontario Court of Justice are required to meet at least once each year and the judges of the Ontario Court in each region are required to meet at least once in each year to consider the Act, the rules and the administration of justice.
4. A limit on costs in the Small Claims Court is set at 15 per cent of the amount claimed unless the court considers it necessary in the interests of justice to penalize a person for unreasonable behaviour in the proceeding.
5. The Act now provides that the Province will pay \$3,000 each year to federally appointed judges. Although these payments will continue for judges appointed before the Bill comes into force, no payments will be made to future appointees.
6. There is no provision for the appointment of new masters.

7. The Lieutenant Governor in Council will be permitted to prescribe the form of the gown worn in court by all judges appointed after the Bill comes into force.
8. All General Division and Unified Family Court judges may be addressed as "Your Honour" or as "Mr. or Mme. Justice", subject to the right of former High Court judges to elect to be addressed according to the old practice.
9. Errors in the Act are corrected with respect to jury trials (section 121) and setting off mutual debts (section 124). The medical examination provision of the Act (section 118) is amended to permit a court to order an examination by a registered psychologist.
10. The salaries of former Chief Judges, Associate Chief Judges and senior judges of the provincial courts and of the Senior Master are protected and they are permitted to retain their titles.
11. The transitional provisions and complementary amendments in the Act are amended to ensure the continuation of existing court proceedings in the new courts and to deem references to courts in other statutes to be references to the new courts.

The Bill is accompanied by the *Court Reform Statute Law Amendment Act, 1989*, which repeals the *Sheriffs Act* and makes consequential amendments to 52 other statutes.

**Bill 2****1989****An Act to amend the Courts of Justice Act, 1984**

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

**1. Section 1 of the *Courts of Justice Act, 1984*, being chapter 11, is repealed and the following substituted therefor:**

**1. In this Act,**

Definitions

“action” means a civil proceeding that is not an application and includes a proceeding commenced by,

- (a) claim,
- (b) statement of claim,
- (c) notice of action,
- (d) counterclaim,
- (e) crossclaim,
- (f) third or subsequent party claim, or
- (g) divorce petition or counterpetition;

“application” means a civil proceeding that is commenced by notice of application or by application;

“defendant” means a person against whom an action is commenced;

“hearing” includes a trial;

“motion” means a motion in a proceeding or an intended proceeding;

“order” includes a judgment or decree;



“plaintiff” means a person who commences an action;

“region” means a region prescribed under section 92a. 1984, c. 11, s. 1, *amended*.

**2.** Parts I and II, Part III, as amended by the Statutes of Ontario, 1984, chapter 55, section 213, 1984, chapter 64, section 1, 1985, chapter 1, section 4, 1986, chapter 7, section 15 and 1987, chapter 1, sections 1, 2 and 3, Part IV, as amended by the Statutes of Ontario, 1984, chapter 55, section 213, 1984, chapter 64, sections 2, 3, 4 and 5 and 1987, chapter 1, sections 4, 5 and 6 and Part V, as amended by the Statutes of Ontario, 1984, chapter 64, sections 6 and 7, of the said Act are repealed and the following substituted therefor:

## PART I

### COURT OF APPEAL FOR ONTARIO

Court of  
Appeal

**2.—**(1) The branch of the Supreme Court of Ontario named the Court of Appeal for Ontario is continued as a superior court of record named the Court of Appeal for Ontario.

Idem

(2) In exercising its jurisdiction, the Court of Appeal has all the power and authority historically exercised by courts of common law and equity in England and Ontario. 1984, c. 11, s. 2, *amended*.

Composition  
of court

**3.—**(1) The Court of Appeal shall consist of,

- (a) the Chief Justice of Ontario, who shall be president of the court;
- (b) the Associate Chief Justice of Ontario; and
- (c) such number of other judges as is fixed under subsection (2), to be called justices of appeal. 1984, c. 11, s. 3 (1), *amended*.

Number of  
judges

(2) The Lieutenant Governor in Council may by regulation fix the number of judges of the Court of Appeal who are in addition to the Chief Justice and the Associate Chief Justice.

Idem

(3) A reduction in the number of judges does not affect appointments existing at the time of the reduction. *New*.

Additional  
judges

(4) There shall be such additional offices of judge of the Court of Appeal as are from time to time required, to be held by Chief Justices of Ontario and Associate Chief Justices of

Ontario who have elected under the *Judges Act* (Canada) to perform only the duties of a judge of the Court of Appeal. 1984, c. 11, s. 6 (1), *amended*. R.S.C. 1985, c. J-1

(5) There shall be such additional offices of supernumerary judge of the Court of Appeal as are from time to time required, to be held by judges of the Court of Appeal who have elected under the *Judges Act* (Canada) to hold office only as a supernumerary judge of the court. 1984, c. 11, s. 6 (3), *amended*. Super-numerary judges

4.—(1) The Chief Justice of Ontario, with the concurrence of the Chief Justice of the Ontario Court, may assign a judge of the Ontario Court (General Division) to perform the work of a judge of the Court of Appeal. 1984, c. 11, s. 9 (2), *amended*. Assignment of judges from General Division

(2) A judge of the General Division is, by virtue of his or her office, a judge of the Court of Appeal and has all the jurisdiction, power and authority of a judge of the Court of Appeal. 1984, c. 11, s. 8, *amended*. General Division judges

5.—(1) The Chief Justice of Ontario has general supervision and direction over the sittings of the Court of Appeal and the assignment of the judicial duties of the court. 1984, c. 11, s. 18 (5). Powers and duties of Chief Justice

(2) If the Chief Justice of Ontario is absent from Ontario or is for any reason unable to act, his or her powers and duties shall be exercised and performed by the Associate Chief Justice of Ontario. Absence of Chief Justice

(3) If the Chief Justice of Ontario and the Associate Chief Justice of Ontario are both absent from Ontario or for any reason unable to act, the powers and duties of the Chief Justice shall be exercised and performed by a judge of the Court of Appeal designated by the Chief Justice or Associate Chief Justice. 1984, c. 11, s. 3 (2), *amended*. Absence of Associate Chief Justice

6.—(1) An appeal lies to the Court of Appeal from, Court of Appeal jurisdiction

(a) an order of the Divisional Court, on a question that is not a question of fact alone, with leave as provided in the rules of court;

(b) a final order of a judge of the Ontario Court (General Division), except an order referred to in clause 18 (1) (a);

- (c) a certificate of assessment of costs issued in a proceeding in the Court of Appeal, on an issue in respect of which an objection was served under the rules of court. 1984, c. 11, s. 17 (1), *amended*.

Combining of  
appeals from  
other courts

- (2) The Court of Appeal has jurisdiction to hear and determine an appeal that lies to the Divisional Court or the Ontario Court (General Division) if an appeal in the same proceeding lies to and is taken to the Court of Appeal.

Idem

- (3) The Court of Appeal may, on motion, transfer an appeal that has already been commenced in the Divisional Court or the Ontario Court (General Division) to the Court of Appeal for the purpose of subsection (2). 1984, c. 11, s. 17 (2), *amended*.

Composition  
of court for  
hearings

- 7.—(1) A proceeding in the Court of Appeal shall be heard and determined by not fewer than three judges sitting together, and always by an uneven number of judges. 1984, c. 11, s. 18 (1), *amended*.

Idem,  
motions

- (2) A motion in the Court of Appeal and an appeal under clause 6 (1) (c) shall be heard and determined by one judge.

Idem

- (3) Subsection (2) does not apply to a motion for leave to appeal, a motion to quash an appeal or any other motion that is specified by the rules of court.

Idem

- (4) A judge assigned to hear and determine a motion may adjourn the motion to a panel of the Court of Appeal.

Idem

- (5) A panel of the Court of Appeal may, on motion, set aside or vary the decision of a judge who hears and determines a motion. 1984, c. 11, s. 18 (3), *amended*.

References to  
Court of  
Appeal

- 8.—(1) The Lieutenant Governor in Council may refer any question to the Court of Appeal for hearing and consideration.

Opinion of  
court

- (2) The court shall certify its opinion to the Lieutenant Governor in Council, accompanied by a statement of the reasons for it, and any judge who differs from the opinion may certify his or her opinion and reasons in the same manner.

Submissions  
by Attorney  
General

- (3) On the hearing of the question, the Attorney General of Ontario is entitled to make submissions to the court.

Idem

- (4) The Attorney General of Canada shall be notified and is entitled to make submissions to the court if the question relates to the constitutional validity or constitutional applica-



bility of an Act, or of a regulation or by-law made under an Act, of the Parliament of Canada or the Legislature.

(5) The court may direct that any person interested, or any one or more persons as representatives of a class of persons interested, be notified of the hearing and be entitled to make submissions to the court. Notice

(6) If an interest affected is not represented by counsel, the court may request counsel to argue on behalf of the interest and the reasonable expenses of counsel shall be paid by the Treasurer of Ontario. Appointment of counsel

(7) The opinion of the court shall be deemed to be a judgment of the court and an appeal lies from it as from a judgment in an action. 1984, c. 11, s. 19. Appeal

## PART II

### ONTARIO COURT OF JUSTICE

**9.—**(1) The Ontario Court of Justice is established. Ontario Court

(2) The Ontario Court shall consist of two divisions, the General Division and the Provincial Division. *New.* Divisions

### ONTARIO COURT (GENERAL DIVISION)

**10.—**(1) The branch of the Supreme Court of Ontario named the High Court of Justice for Ontario is continued as a superior court of record named the Ontario Court (General Division). General Division

(2) The General Division has all the jurisdiction, power and authority historically exercised by courts of common law and equity in England and Ontario. 1984, c. 11, s. 2 (1), *amended.* Idem

**11.—**(1) The General Division shall consist of, Composition of General Division

- (a) the Chief Justice of the Ontario Court, who shall be president of the Ontario Court;
- (b) a regional senior judge of the General Division for each region;
- (c) a senior judge of the General Division for the Unified Family Court; and



- (d) such number of judges of the General Division as is fixed under clause 52 (1) (a). 1984, c. 11, s. 4 (1), *amended*.

Additional  
judges

(2) There shall be such additional offices of judge of the General Division as are from time to time required, to be held by Chief Justices of the Ontario Court and regional senior judges of the General Division who have elected under the *Judges Act* (Canada) to perform only the duties of a judge of the Ontario Court. 1984, c. 11, s. 6 (1), *amended*.

R.S.C. 1985,  
c. J-1

Super-  
numerary  
judges

(3) There shall be such additional offices of supernumerary judge of the General Division as are from time to time required, to be held by judges of the General Division who have elected under the *Judges Act* (Canada) to hold office only as a supernumerary judge of that division. 1984, c. 11, s. 6 (3), *amended*.

Assignment  
of judges  
from Court  
of Appeal

**12.**—(1) The Chief Justice of Ontario, with the concurrence of the Chief Justice of the Ontario Court, may assign a judge of the Court of Appeal to perform the work of a judge of the General Division. 1984, c. 11, s. 9 (1), *amended*.

Court of  
Appeal  
judges

(2) A judge of the Court of Appeal is, by virtue of his or her office, a judge of the General Division and has all the jurisdiction, power and authority of a judge of the General Division. 1984, c. 11, s. 8, *amended*.

Powers and  
duties of  
Chief Justice  
of Ontario  
Court

**13.**—(1) The Chief Justice of the Ontario Court shall direct and supervise the sittings of the Ontario Court (General Division) and the assignment of its judicial duties.

Regional  
senior  
judges,  
General  
Division

(2) A regional senior judge of the General Division shall, subject to the authority of the Chief Justice of the Ontario Court, exercise the powers and perform the duties of the Chief Justice in respect of the General Division in his or her region.

Delegation

(3) A regional senior judge of the General Division may delegate to a judge of the General Division in his or her region the authority to exercise specified functions. *New*.

Absence of  
Chief Justice  
of Ontario  
Court

(4) If the Chief Justice of the Ontario Court is absent from Ontario or is for any reason unable to act, his or her powers and duties shall be exercised and performed by a regional senior judge of the General Division designated by the Chief Justice of the Ontario Court. 1984, c. 11, s. 4 (3), *amended*.

Absence of  
regional  
senior judge  
of General  
Division

(5) The powers and duties of a regional senior judge of the General Division who is absent from Ontario or is for any rea-

son unable to act shall be exercised and performed by a judge of the General Division designated by the Chief Justice of the Ontario Court.

(6) The Chief Justice of the Ontario Court may hold meetings with the regional senior judges of the General Division in order to consider any matters concerning sittings of the General Division and the assignment of its judicial duties. *New.*

Meetings  
with regional  
senior judges

**14.—**(1) The Chief Justice of the Ontario Court shall assign every judge of the General Division to a region and may re-assign a judge from one region to another.

Judges  
assigned to  
regions

(2) There shall be at least one judge of the General Division assigned to each county and district.

At least one  
judge in each  
county

(3) No judge of the General Division who was a judge of the High Court of Justice or the District Court of Ontario before this section comes into force shall be assigned without his or her consent to a region other than the region in which he or she resided immediately before this section comes into force.

High Court  
and District  
Court judges

(4) Subsections (1) to (3) do not prevent the temporary assignment of a judge to a location anywhere in Ontario. *New.*

Idem

**15.** A proceeding in the General Division shall be heard and determined by one judge of the General Division. 1984, c. 11, s. 14 (1), *amended.*

Composition  
of court for  
hearings

**16.** An appeal lies to the General Division from,

Appeals to  
General  
Division

(a) an interlocutory order of a master;

(b) a certificate of assessment of costs issued in a proceeding in the General Division, on an issue in respect of which an objection was served under the rules of court. 1984, c. 11, s. 13 (2), *amended.*

#### DIVISIONAL COURT

**17.—**(1) There shall be a branch of the General Division to be known as the Divisional Court consisting of the Chief Justice of the Ontario Court who shall be president of the court and such other judges of the General Division as the Chief Justice designates from time to time.

Divisional  
Court

(2) Every judge of the General Division is also a judge of the Divisional Court. 1984, c. 11, s. 5, *amended.*

Jurisdiction  
of judges

Divisional  
Court  
jurisdiction

**18.—(1)** An appeal lies to the Divisional Court from,

- (a) a final order of a judge of the General Division,
  - (i) for a single payment of not more than \$25,000, exclusive of costs,
  - (ii) for periodic payments that amount to not more than \$25,000, exclusive of costs, in the twelve months commencing on the date the first payment is due under the order,
  - (iii) dismissing a claim for an amount that is not more than the amount set out in subclause (i) or (ii), or
  - (iv) dismissing a claim for an amount that is more than the amount set out in subclause (i) or (ii) and in respect of which the judge indicates that if the claim had been allowed the amount awarded would have been not more than the amount set out in subclause (i) or (ii);
- (b) an interlocutory order of a judge of the General Division, with leave as provided in the rules of court;
- (c) a final order of a master. 1984, c. 11, s. 15 (1), *amended*.

Combining of  
appeals from  
General  
Division

(2) The Divisional Court has jurisdiction to hear and determine an appeal that lies to the General Division if an appeal in the same proceeding lies to and is taken to the Divisional Court.

Idem

(3) The Divisional Court may, on motion, transfer an appeal that has already been commenced in the General Division to the Divisional Court for the purpose of subsection (2). 1984, c. 11, s. 15 (2), *amended*.

Appeal from  
interlocutory  
orders

(4) No appeal lies from an interlocutory order of a judge of the General Division made on an appeal from an interlocutory order of the Provincial Division. 1984, c. 11, s. 36 (4), *amended*.

Appeals  
heard in  
regions

**19.—(1)** An appeal to the Divisional Court shall be heard in the region in which the order appealed from was made, unless the parties agree otherwise.



(2) Any other proceeding in the Divisional Court may be brought in any region. *New.* Other proceedings in any region

**20.**—(1) A proceeding in the Divisional Court shall be heard and determined by three judges sitting together. Composition of court for hearings

(2) A proceeding in the Divisional Court may be heard and determined by one judge where the proceeding, Idem

(a) is an appeal under clause 18 (1) (c);

(b) is an appeal under section 30 from a provincial judge or a deputy judge presiding over the Small Claims Court; or

(c) is in a matter that the Chief Justice of the Ontario Court or a judge designated by the Chief Justice is satisfied, from the nature of the issues involved and the necessity for expedition, can and ought to be heard and determined by one judge.

(3) A motion in the Divisional Court shall be heard and determined by one judge, unless otherwise provided by the rules of court. Idem, motions

(4) A judge assigned to hear and determine a motion may adjourn it to a panel of the Divisional Court. Idem

(5) A panel of the Divisional Court may, on motion, set aside or vary the decision of a judge who hears and determines a motion. 1984, c. 11, s. 16, *amended.* Idem

#### SMALL CLAIMS COURT

**21.**—(1) There shall be a branch of the General Division to be known as the Small Claims Court consisting of the Chief Justice of the Ontario Court who shall be president of the court and such other judges of the General Division as the Chief Justice designates from time to time. Small Claims Court

(2) Every judge of the General Division is also a judge of the Small Claims Court. *New.* Jurisdiction of judges

**22.**—(1) The Small Claims Court, Jurisdiction

(a) has jurisdiction in any action for the payment of money where the amount claimed does not exceed the prescribed amount exclusive of interest and costs; and



- (b) has jurisdiction in any action for the recovery of possession of personal property where the value of the property does not exceed the prescribed amount. 1984, c. 11, s. 78 (1), *amended*.

Transfer  
from General  
Division

(2) An action in the General Division may be transferred to the Small Claims Court by the local registrar of the General Division on requisition with the consent of all parties filed before the trial commences if,

- (a) the only claim is for the payment of money or the recovery of possession of personal property; and
- (b) the claim is within the jurisdiction of the Small Claims Court.

Idem

(3) An action transferred to the Small Claims Court shall be titled and continued as if it had been commenced in that court. 1984, c. 11, s. 84, *amended*.

Composition  
of court for  
hearings

**23.**—(1) A proceeding in the Small Claims Court shall be heard and determined by one judge of the General Division.

Provincial  
judge or  
deputy judge  
may preside

(2) A proceeding in the Small Claims Court may also be heard and determined by,

- (a) a provincial judge who was assigned to the Provincial Court (Civil Division) immediately before this section comes into force; or
- (b) a deputy judge appointed under section 31.

Where  
deputy judge  
not to  
preside

(3) A deputy judge shall not hear and determine an action,

- (a) for the payment of money in excess of the prescribed amount; or
- (b) for the recovery of possession of personal property exceeding the prescribed amount in value. *New*.

Summary  
hearings

**24.** The Small Claims Court shall hear and determine in a summary way all questions of law and fact and may make such order as is considered just and agreeable to good conscience. 1984, c. 11, s. 78 (3), *amended*.

Representation

**25.** A party may be represented in a proceeding in the Small Claims Court by counsel or an agent but the court may exclude from a hearing anyone, other than a barrister and solicitor qualified to practise in Ontario, appearing as an agent on behalf of a party if it finds that such person is not compe-

tent properly to represent the party or does not understand and comply at the hearing with the duties and responsibilities of an advocate. 1984, c. 11, s. 79, *amended*.

**26.**—(1) Subject to subsections (3) and (4), the Small Claims Court may admit as evidence at a hearing and act upon any oral testimony and any document or other thing so long as the evidence is relevant to the subject-matter of the proceeding, but the court may exclude anything unduly repetitious. Evidence

(2) Subsection (1) applies whether or not the evidence is given or proven under oath or affirmation or admissible as evidence in any other court. Idem

(3) Nothing is admissible in evidence at a hearing, Idem

(a) that would be inadmissible by reason of any privilege under the law of evidence; or

(b) that is inadmissible by any Act.

(4) Nothing in subsection (1) overrides the provisions of any Act expressly limiting the extent to or purposes for which any oral testimony, documents or things may be admitted or used in evidence in any proceeding. Conflicts

(5) A copy of a document or any other thing may be admitted as evidence at a hearing if the presiding judge is satisfied as to its authenticity. 1984, c. 11, s. 80, *amended*. Copies

**27.** The Small Claims Court may order the times and the proportions in which money payable under an order of the court shall be paid. 1984, c. 11, s. 81, *amended*. Instalment orders

**28.** An award of costs in the Small Claims Court, other than disbursements, shall not exceed 15 per cent of the amount claimed or the value of the property sought to be recovered unless the court considers it necessary in the interests of justice to penalize a party, counsel or agent for unreasonable behaviour in the proceeding. *New*. Limit on costs

**29.** Orders of the Small Claims Court shall be directed to a bailiff appointed under subsection 32 (1) for enforcement, unless otherwise provided by the rules of court. 1984, c. 11, s. 82, *amended*. Enforcement of orders

**30.** An appeal lies to the Divisional Court from a final order of the Small Claims Court in an action, Appeals

- (a) for the payment of money in excess of \$500, excluding costs; or
- (b) for the recovery of possession of personal property exceeding \$500 in value. 1984, c. 11, s. 83, *amended*.

Deputy  
judges

**31.**—(1) A regional senior judge of the General Division may, with the approval of the Attorney General, appoint a barrister and solicitor to act as a deputy judge of the Small Claims Court for a term of three years.

Idem

(2) A regional senior judge of the General Division may renew the appointment of a deputy judge for one or more three-year terms.

Idem

(3) The appointment of a person who was a deputy judge immediately before this section comes into force is deemed to be renewed under subsection (2) on the day this section comes into force. *New*.

Clerk and  
bailiff of  
Small Claims  
Court

**32.**—(1) There shall be a clerk and one or more bailiffs for each division of the Small Claims Court who shall be appointed by the Lieutenant Governor in Council.

Idem

(2) With the approval of the Deputy Attorney General or the person designated by the Deputy Attorney General, every clerk and bailiff of the Small Claims Court in a division that is not designated under clause 52 (1) (g) may appoint in writing a deputy who may exercise and perform all the powers and duties of the clerk or bailiff.

Referee

(3) The Lieutenant Governor in Council may appoint a referee for a division of the Small Claims Court. 1984, c. 11, s. 86 (4, 5), *amended*.

#### PROVINCIAL DIVISION

Provincial  
Division

**33.** The Provincial Court (Criminal Division), the Provincial Court (Family Division) and the Provincial Offences Court are amalgamated and continued as a court of record named the Ontario Court (Provincial Division). *New*.

Composition  
of Provincial  
Division

**34.** The Provincial Division shall consist of,

- (a) the Chief Judge of the Provincial Division appointed under subsection 41 (3), who shall be president of the Provincial Division;



- (b) a regional senior judge of the Provincial Division appointed under subsection 41 (4) for each region; and
- (c) such provincial judges as are appointed under subsection 41 (1). *New.*

**35.—**(1) The Chief Judge of the Provincial Division shall direct and supervise the sittings of the Provincial Division and the assignment of its judicial duties. 1984, c. 11, s. 63 (5), *amended.* Powers and duties of Chief Judge of Provincial Division

(2) A regional senior judge of the Provincial Division shall, subject to the authority of the Chief Judge of the Provincial Division, exercise the powers and perform the duties of the Chief Judge of the Provincial Division in his or her region. Regional senior judges, Provincial Division

(3) A regional senior judge of the Provincial Division may delegate to a judge of the Provincial Division in his or her region the authority to exercise specified functions. *New.* Delegation

(4) If the Chief Judge of the Provincial Division is absent from Ontario or is for any reason unable to act, his or her powers and duties shall be exercised and performed by a regional senior judge of the Provincial Division designated by the Chief Judge of the Provincial Division. 1984, c. 11, s. 63 (7), *amended.* Absence of Chief Judge of Provincial Division

(5) The powers and duties of a regional senior judge of the Provincial Division who is absent from Ontario or is for any reason unable to act shall be exercised and performed by a judge of the Provincial Division designated by the Chief Judge of the Provincial Division. Absence of regional senior judge of Provincial Division

(6) The Chief Judge of the Provincial Division may hold meetings with the regional senior judges of the Provincial Division in order to consider any matters concerning sittings of the Provincial Division and the assignment of its judicial duties. *New.* Meetings with regional senior judges

**36.—**(1) The Chief Judge of the Ontario Court (Provincial Division) shall assign every provincial judge to a region and may re-assign a judge from one region to another. Judges assigned to regions

(2) Subsection (1) does not prevent the temporary assignment of a provincial judge to a location anywhere in Ontario. *New.* Idem

**37.—**(1) A provincial judge has the power and authority of two or more justices of the peace when sitting in the Criminal jurisdiction



Provincial Division and shall exercise the powers and perform the duties that any Act of the Parliament of Canada confers on a provincial court judge when sitting in the Provincial Division. 1984, c. 11, s. 67 (1), *amended*.

Provincial  
offences and  
family  
jurisdiction  
R.S.O. 1980,  
c. 400  
1986, c. 4  
R.S.O. 1980,  
c. 68  
1984, c. 55

(2) The Provincial Division shall perform any function assigned to it by or under the *Provincial Offences Act*, the *Family Law Act*, 1986, the *Children's Law Reform Act*, the *Child and Family Services Act*, 1984 or any other Act. 1984, c. 11, s. 69, s. 75 (1) (a), (k), *amended*.

Youth court  
jurisdiction  
R.S.C. 1985,  
c. Y-1

(3) The Provincial Division is a youth court for the purposes of the *Young Offenders Act* (Canada). 1984, c. 11, s. 67 (2), s. 75 (1) (b), *amended*.

Judge to  
preside

**38.**—(1) A proceeding in the Provincial Division shall be heard and determined by one judge of the Provincial Division. 1984, c. 11, s. 66 (2), s. 74 (2), *amended*.

Justice of the  
peace may  
preside  
R.S.O. 1980,  
c. 400

(2) A justice of the peace may preside over the Provincial Division in a proceeding under the *Provincial Offences Act*. 1984, c. 11, s. 68 (2), *amended*.

Appeals

**39.**—(1) If no provision is made concerning an appeal from an order of the Provincial Division, an appeal lies to the General Division.

Exception  
R.S.C. 1985,  
c. C-46

(2) Subsection (1) does not apply to a proceeding under the *Criminal Code* (Canada) or the *Provincial Offences Act*. 1987, c. 1, s. 6, *amended*.

Penalty for  
disturbance  
outside  
courtroom

**40.** Any person who knowingly disturbs or interferes with a proceeding in the Provincial Division without reasonable justification while outside the courtroom is guilty of an offence and on conviction is liable to a fine of not more than \$1,000 or to imprisonment for a term of not more than thirty days, or to both. 1984, c. 11, s. 72, *amended*.

#### PROVINCIAL JUDGES

Appointment  
of provincial  
judges

**41.**—(1) The Lieutenant Governor in Council, on the recommendation of the Attorney General, may appoint such provincial judges as are considered necessary.

Qualifications

(2) No person shall be appointed as a provincial judge unless he or she has been a member of the bar of one of the provinces of Canada for at least ten years. 1984, c. 11, s. 52.

(3) The Lieutenant Governor in Council may appoint a provincial judge as Chief Judge of the Provincial Division. 1984, c. 11, s. 63 (1), *amended*. Chief Judge

(4) The Lieutenant Governor in Council may appoint a provincial judge to be the regional senior judge of the Provincial Division for each region. Regional senior judges

(5) The Chief Judge of the Provincial Division and the regional senior judges of the Provincial Division shall hold office for five years. Term of office

(6) If a successor is not appointed within five years, the Chief Judge or a regional senior judge shall continue in office until the successor is appointed, but in no case shall the Chief Judge or regional senior judge hold office for more than seven years. Idem

(7) A Chief Judge or a regional senior judge whose term of office expires under subsection (5) or (6) shall continue to hold the office of provincial judge and is entitled to an annual salary equal to the greater of, Former Chief Judge, etc.

(a) the current annual salary of a provincial judge; or

(b) the annual salary he or she received immediately before ceasing to be Chief Judge or regional senior judge.

(8) A Chief Judge or regional senior judge whose term of office expires under subsection (5) or (6) shall not be reappointed to the same position. *New.* Chief Judge, etc., not to be reappointed

**42.—**(1) A provincial judge shall devote his or her whole time to the performance of his or her duties as a judge, except as authorized by the Lieutenant Governor in Council. Other employment

(2) Despite subsection (1), a provincial judge who, before the 1st day of January, 1985, had the consent of the Attorney General to act as an arbitrator or conciliator may continue to so act. 1984, c. 11, s. 53, *amended*. Idem

**43.—**(1) Every provincial judge shall retire upon attaining the age of sixty-five years. Retirement

(2) Despite subsection (1), a provincial judge appointed as a full-time magistrate, judge of a juvenile and family court or master before the 2nd day of December, 1968 shall retire upon attaining the age of seventy years. Idem

Continuation  
of judges in  
office

(3) A judge who has attained the age of sixty-five years may, subject to the annual approval of the Chief Judge of the Provincial Division, continue in office as a full-time or part-time judge until he or she attains the age of seventy years.

Idem

(4) A judge who has attained the age of seventy years may, subject to the annual approval of the Judicial Council, continue in office as a full-time or part-time judge until he or she has attained the age of seventy-five years.

Continuation  
of regional  
senior judge  
in office

(5) Subject to subsections 41 (5) and (6), a regional senior judge of the Provincial Division who is in office upon attaining the age of sixty-five years may, subject to the annual approval of the Chief Judge of the Provincial Division, continue in that office until he or she has attained the age of seventy years.

Idem

(6) Subject to subsections 41 (5) and (6), a regional senior judge of the Provincial Division who is in office upon attaining the age of seventy years may, subject to the annual approval of the Judicial Council, continue in that office until he or she has attained the age of seventy-five years.

Continuation  
of  
Co-ordinator  
in office  
1989, c. 46

(7) Subject to subsections 13 (2) and (3) of the *Justices of the Peace Act, 1989*, if the Co-ordinator of Justices of the Peace is in office upon attaining the age of sixty-five years, he or she may, subject to the annual approval of the Chief Judge of the Provincial Division, continue in that office until he or she has attained the age of seventy years.

Idem

(8) Subject to subsections 13 (2) and (3) of the *Justices of the Peace Act, 1989*, if the Co-ordinator of Justices of the Peace is in office upon attaining the age of seventy years, he or she may, subject to the annual approval of the Judicial Council, continue in that office until he or she has attained the age of seventy-five years. *New.*

Continuation  
in office of  
Chief Judge  
of Provincial  
Division

(9) Subject to subsections 41 (5) and (6), if the Chief Judge of the Provincial Division is in office upon attaining the age for retirement under subsection (1) or (2), he or she may, subject to the annual approval of the Judicial Council, continue in that office until he or she has attained the age of seventy-five years. 1984, c. 11, s. 54, *amended.*

Resignation  
of judge

**44.**—(1) A provincial judge may at any time resign from his or her office by delivering a signed letter of resignation to the Attorney General.

Resignation  
as Chief  
Judge, etc.

(2) A Chief Judge or a regional senior judge may, before the expiry of his or her term of office under subsection 41 (5)



or (6), elect to hold the office of a provincial judge only, by delivering a signed letter to that effect to the Attorney General.

(3) The Co-ordinator of Justices of the Peace may, before the expiry of his or her term of office under subsection 13 (2) or (3) of the *Justices of the Peace Act, 1989*, elect to hold the office of a provincial judge only, by delivering a signed letter to that effect to the Attorney General. *New.*

Resignation  
of  
Co-ordinator  
1989, c. 46

(4) A resignation or election under this section takes effect on the day the letter is delivered to the Attorney General or, if the letter specifies a later day, on that day. 1984, c. 11, s. 55, s. 65, *amended.*

Effective  
date

**45.—**(1) A provincial judge may be removed from office before attaining retirement age only if,

Removal for  
cause

(a) a complaint regarding the judge has been made to the Judicial Council; and

(b) the removal is recommended by an inquiry held under section 49 on the ground that the judge has become incapacitated or disabled from the due execution of his or her office by reason of,

(i) infirmity,

(ii) conduct that is incompatible with the execution of his or her office, or

(iii) having failed to perform the duties of his or her office.

(2) An order removing a provincial judge from office under this section may be made by the Lieutenant Governor on the address of the Legislative Assembly. 1984, c. 11, s. 56, *amended.*

Order for  
removal

**46.—**(1) The Judicial Council for Provincial Judges is continued as the Ontario Judicial Council and shall be composed of,

Judicial  
Council

(a) the Chief Justice of Ontario, who shall preside over the Ontario Judicial Council;

(b) the Associate Chief Justice of Ontario;

(c) the Chief Justice of the Ontario Court;



- (d) the Chief Judge of the Ontario Court (Provincial Division);
- (e) the Treasurer of The Law Society of Upper Canada; and
- (f) not more than two other persons appointed by the Lieutenant Governor in Council.

**Quorum**

(2) A majority of members of the Judicial Council constitutes a quorum and is sufficient for the exercise of all the jurisdiction and powers of the Judicial Council.

**Staff**

R.S.O. 1980,  
c. 418

(3) Such officers and employees of the Judicial Council as are considered necessary may be appointed under the *Public Service Act*.

**Expert assistance**

(4) The Judicial Council may engage persons, including counsel, to assist it in its investigations. 1984, c. 11, s. 57, *amended*.

**Transition**

(5) An investigation commenced by the Judicial Council before this section comes into force shall be continued by the Judicial Council as it was constituted before this section comes into force. *New*.

**Functions**

**47.**—(1) The functions of the Judicial Council are,

- (a) to consider all proposed appointments of provincial judges and make a report on them to the Attorney General;
- (b) to receive and investigate complaints against provincial judges.

**Liability for damages**

(2) No action or other proceeding for damages shall be instituted against the Judicial Council or any member or officer of it or any person acting under its authority for any act done in good faith in the execution or intended execution of its or his or her duty. 1984, c. 11, s. 58.

**Investigation of complaints**

**48.**—(1) Where the Judicial Council receives a complaint against a provincial judge, it shall take such action to investigate the complaint as it considers advisable.

**Referral to Chief Judge**

(2) The Judicial Council may transmit those complaints it considers appropriate,

- (a) concerning provincial judges to the Chief Judge of the Provincial Division; and

(b) concerning masters to the Chief Justice of the Ontario Court.

(3) The proceedings of the Judicial Council shall not be public, but it may inform the Attorney General respecting matters that it has investigated and the Attorney General may make public the fact that an investigation has been undertaken.

Proceedings  
not public

(4) The Judicial Council may order that information or documents relating to its proceedings not be published or disclosed except as required by law.

Prohibiting  
publication

(5) The Judicial Council has all the powers of a commission under Part II of the *Public Inquiries Act*, which Part applies to the investigation as if it were an inquiry under that Act.

Powers  
R.S.O. 1980,  
c. 411

(6) When the Judicial Council has dealt with a complaint regarding a provincial judge, it shall inform the following persons of its disposition of the complaint:

Notice of  
disposition

1. The person who made the complaint.
2. If the complaint was brought to the attention of the judge, the judge.

(7) The Judicial Council may report its opinion regarding the complaint to the Attorney General and may recommend,

Report and  
recommen-  
dations

- (a) that an inquiry be held under section 49;
- (b) that the judge be compensated for all or part of the costs incurred by the judge relating to the investigation.

(8) A copy of a report made under subsection (7) shall be given to the judge.

Copy to  
judge

(9) The Judicial Council shall not make a report under subsection (7) unless the judge was notified of the investigation and given an opportunity to be heard and to produce evidence on his or her behalf.

Right to be  
heard

(10) When the Judicial Council makes a report to the Attorney General under subsection (7), the Attorney General may make all or part of the report public, if he or she is of the opinion that it is in the public interest to do so. 1984, c. 11, s. 59, *amended*.

Publication  
of report

## Inquiry

**49.**—(1) The Lieutenant Governor in Council may appoint a judge of the General Division to inquire into the question whether a provincial judge should be removed from office.

## Powers

R.S.O. 1980,  
c. 411

(2) The *Public Inquiries Act* applies to an inquiry under subsection (1).

## Report

(3) The report of the inquiry may recommend,

- (a) that the judge be removed from office;
- (b) that the judge be compensated for all or part of the costs incurred by the judge relating to the inquiry.

Tabling of  
report

(4) The report of the inquiry shall be laid before the Legislative Assembly if it is in session or, if not, within fifteen days after the commencement of the next session. 1984, c. 11, s. 60, *amended*.

Provincial  
Judges  
Remuneration  
Commission

**50.**—(1) The committee known as the Ontario Provincial Courts Committee is continued as the Provincial Judges Remuneration Commission.

Composition  
of  
Commission

(2) The Commission shall be composed of the following three members:

1. One appointed jointly by the associations representing provincial judges.
2. One appointed by the Lieutenant Governor in Council.
3. One, who shall head the Commission, appointed jointly by the bodies referred to in paragraphs 1 and 2.

## Function

(3) The function of the Provincial Judges Remuneration Commission is to inquire into and make recommendations to the Lieutenant Governor in Council respecting any matter relating to the remuneration, allowances and benefits of provincial judges, including the matters referred to in clauses 52 (1) (b) and (c).

Annual  
report

(4) The Commission shall make an annual report of its activities to the Lieutenant Governor in Council.

Tabling of  
recommen-  
dations

(5) Recommendations of the Commission and its annual report shall be laid before the Legislative Assembly if it is in

session or, if not, within fifteen days of the commencement of the next session. 1984, c. 11, s. 88, *amended*.

#### MISCELLANEOUS

**51.**—(1) The judges of the Ontario Court of Justice shall meet at least once in each year, on a day fixed by the Chief Justice of the Ontario Court, in order to consider this Act, the rules of court and the administration of justice generally. Meeting of judges

(2) The judges shall report their recommendations to the Attorney General. 1984, c. 11, s. 10, *amended*. Idem

(3) The judges of the Ontario Court of Justice in each region shall meet at least once in each year, on a day fixed by the regional senior judge of the General Division, in order to consider this Act, the rules of court and the administration of justice in the region generally. Regional meeting of judges

(4) The judges shall report their recommendations to the Attorney General. *New*. Idem

**52.**—(1) The Lieutenant Governor in Council may make regulations, Regulations

(a) fixing the number of judges of the General Division who are in addition to the Chief Justice, the regional senior judges and the Senior Judge for the Unified Family Court;

(b) fixing the remuneration of provincial judges and masters;

(c) providing for the benefits to which provincial judges and masters are entitled, including,

(i) leave of absence and vacations,

(ii) sick leave credits and payments in respect of those credits,

(iii) pension benefits for provincial judges, masters and their surviving spouses and children;

(d) prescribing territorial divisions for the Small Claims Court;

(e) prescribing the maximum amount of a claim in the Small Claims Court for the purposes of subsection 22 (1);



R.S.O. 1980,  
c. 418

- (f) prescribing the maximum amount of a claim over which a deputy judge may preside for the purposes of subsection 23 (3);
- (g) providing for the retention of fees by clerks, bailiffs and referees of the Small Claims Court who are not civil servants under the *Public Service Act* and designating divisions where clerks, bailiffs and referees of the Small Claims Court may be appointed to a position as a civil servant under that Act;
- (h) prescribing the duties of clerks, bailiffs and referees of the Small Claims Court;
- (i) prescribing for each region the minimum number of judges of the General Division and of the Provincial Division who are to be assigned to that region. 1984, c. 11, s. 4 (2), s. 20 (4), s. 87 (1), *amended*.

Idem

(2) A reduction in the number of judges of the General Division under clause (1) (a) does not affect appointments existing at the time of the reduction. 1984, c. 11, s. 4 (2), *amended*.

Contributions

(3) Regulations made under clause (1) (c) may require judges and masters to contribute from their salaries part of the costs of benefits and may fix the amount of the contributions.

Application  
of  
R.S.O. 1980,  
c. 419

(4) A regulation made under clause (1) (c) may modify or exclude the application of the *Public Service Superannuation Act*.

Application  
of regulations

(5) A regulation made under subsection (1) may be general or particular in its application. 1984, c. 11, s. 20 (5-7), s. 87 (2-4), *amended*.

### PART III

#### UNIFIED FAMILY COURT

Unified  
Family Court

**53.** The Unified Family Court is continued as a superior court of record in and for The Regional Municipality of Hamilton-Wentworth. 1984, c. 11, s. 38, *amended*.

Composition  
of court

**54.—**(1) The Unified Family Court shall be presided over by,

(a) a judge of the Ontario Court (General Division) appointed as senior judge for the Unified Family Court; or

(b) a judge of the Ontario Court (General Division),

who is authorized under subsection (3) to exercise the jurisdiction of a judge of the Ontario Court (Provincial Division).

(2) The senior judge for the Unified Family Court shall supervise and direct the sittings and the assignment of the judicial duties of the Unified Family Court. Duties of senior judge

(3) The Lieutenant Governor in Council may authorize a judge of the General Division to exercise the jurisdiction of a judge of the Provincial Division. Authority for Provincial Division matters

(4) A judge who may preside over the Unified Family Court shall exercise his or her jurisdiction as a judge of the General Division or a judge of the Provincial Division in the matters in which the General Division or the Provincial Division or a judge of one of them has jurisdiction under the statutory provisions set out in the Schedule to this Part. 1984, c. 11, s. 39; 1987, c. 1, s. 1, *amended*. Exercise of existing jurisdiction

**55.**—(1) Proceedings taken in a court in The Regional Municipality of Hamilton-Wentworth under the statutory provisions set out in the Schedule to this Part, other than by way of appeal, shall be commenced and titled in the Unified Family Court and the jurisdiction of the court shall be exercised in the Unified Family Court. Proceedings in Unified Family Court

(2) A motion for interim relief under the *Divorce Act*, 1985 (Canada), the *Family Law Act*, 1986 or the *Children's Law Reform Act* in a proceeding in the General Division shall be heard in the Unified Family Court if it is required or permitted to be heard in The Regional Municipality of Hamilton-Wentworth by the rules of court or an order of the court. 1984, c. 11, s. 40 (1, 2) *amended*. Idem  
S.C. 1986,  
c. 4  
1986, c. 4  
R.S.O. 1980,  
c. 68

(3) All proceedings commenced in or transferred to the Unified Family Court shall be heard and determined without a jury. 1984, c. 11, s. 40 (4), *amended*. No jury

**56.** Where a proceeding is commenced in the Unified Family Court in a matter over which jurisdiction may be exercised in the Unified Family Court and is combined with a related matter in the jurisdiction of the judge but respecting which jurisdiction may not be exercised in the Unified Family Other jurisdiction

Court, the court may, with leave of the judge, hear and determine the combined matters. 1984, c. 11, s. 41, *amended*.

Orders of  
predecessor  
court

**57.**—(1) The Unified Family Court may hear and determine an application under an Act to discharge, vary or suspend an order made by the Provincial Court (Family Division) of the Judicial District of Hamilton-Wentworth.

Enforcement

(2) The Unified Family Court may enforce orders made by the Provincial Court (Family Division) of the Judicial District of Hamilton-Wentworth. 1984, c. 11, s. 42, *amended*.

Place where  
proceedings  
commenced

**58.**—(1) Subject to subsection (2), proceedings referred to in subsection 55 (1) may be commenced in the Unified Family Court where the applicant or the respondent resides in The Regional Municipality of Hamilton-Wentworth. 1984, c. 11, s. 44 (1), *amended*.

Idem,  
custody or  
access  
R.S.O. 1980,  
c. 68

(2) An application under Part III of the *Children's Law Reform Act* in respect of a child who ordinarily resides in The Regional Municipality of Hamilton-Wentworth may be commenced in the Unified Family Court. 1984, c. 11, s. 44 (2), *amended*.

Transfer to  
other court

(3) A judge who may preside over the Unified Family Court may, on motion, order that a proceeding commenced in the Unified Family Court be transferred to the appropriate court in a place where there is no Unified Family Court if, in the opinion of the judge, there is a preponderance of convenience for the matter to be dealt with by that court. 1984, c. 11, s. 44 (3).

Transfer  
from other  
court

(4) A judge of a court having jurisdiction in a proceeding under a statutory provision set out in the Schedule to this Part in an area other than The Regional Municipality of Hamilton-Wentworth may, on motion, order that the proceeding be transferred to the Unified Family Court if, in the opinion of the judge, there is a preponderance of convenience for the matter to be dealt with by that court. 1984, c. 11, s. 44 (4), *amended*.

Directions

(5) A judge making an order under subsection (3) or (4) may give such directions for the transfer as are considered just. 1984, c. 11, s. 44 (5).

Status of  
orders

**59.** An order of a judge presiding over the Unified Family Court made in the exercise of his or her jurisdiction as a judge of the Ontario Court (General Division) is an order of the General Division for all purposes. 1984, c. 11, s. 45, *amended*.



**60.**—(1) Subject to subsections (2) and (3), a provision for an appeal from an order made under the statutory provisions set out in the Schedule to this Part applies to an order when made in the exercise of the jurisdiction by a judge presiding over the Unified Family Court. Appeals

(2) Where an order made by the Unified Family Court under a statutory provision set out in the Schedule to this Part is within the jurisdiction of the Ontario Court (General Division) outside The Regional Municipality of Hamilton-Wentworth, the order shall, for the purposes of an appeal, be deemed to have been made by a judge of the General Division. 1984, c. 11, s. 46 (1, 2), *amended*. Idem

(3) A provision for an appeal to the Ontario Court (General Division) or a judge of it from an order made by the Unified Family Court under the statutory provisions set out in the Schedule to this Part shall be deemed to provide for an appeal to the Divisional Court. *New*. Idem

(4) Where no provision is made for an appeal from an order of a judge presiding over the Unified Family Court, an appeal lies, Idem

(a) to the Court of Appeal from a final order, except an order referred to in clause (b);

(b) to the Divisional Court from a final order,

(i) for a single payment of not more than \$25,000, exclusive of costs,

(ii) for periodic payments that amount to not more than \$25,000, exclusive of costs, in the twelve months commencing on the date the first payment is due under the order,

(iii) dismissing a claim for an amount that is not more than the amount set out in subclause (i) or (ii), or

(iv) dismissing a claim for an amount that is more than the amount set out in subclause (i) or (ii) and in respect of which the judge indicates that if the claim had been allowed the amount awarded would have been not more than the amount set out in subclause (i) or (ii); or



- (c) to the Divisional Court from an interlocutory order, with leave as provided in the rules of court. 1984, c. 11, s. 46 (4), *amended*.

Criminal  
jurisdiction

**61.**—(1) A judge presiding over the Unified Family Court has all the powers of a judge sitting in the Ontario Court (Provincial Division) for the purposes of proceedings under the *Criminal Code* (Canada).

R.S.C. 1985,  
c. C-46

Idem

(2) The Unified Family Court shall be deemed to be and shall sit as the Provincial Division,

- (a) for the purpose of dealing with young persons as defined in the *Provincial Offences Act*; and

R.S.O. 1980,  
c. 400

1986, c. 4

R.S.O. 1980,  
cc. 68, 293  
1984, c. 55

- (b) for the purpose of prosecutions under the *Family Law Act, 1986*, the *Children's Law Reform Act*, the *Minors' Protection Act* and Part III (Child Protection) and Part VII (Adoption) of the *Child and Family Services Act, 1984*.

Idem

R.S.C. 1985,  
c. Y-1

(3) The Unified Family Court is a youth court for the purpose of the *Young Offenders Act* (Canada). 1984, c. 11, s. 47, *amended*.

Conciliation  
service

**62.** A conciliation service may be established, maintained and operated as part of the Unified Family Court. 1984, c. 11, s. 49.

Rules

**63.**—(1) The Lieutenant Governor in Council may make rules for the Unified Family Court in relation to the practice and procedure of the court and may make rules for the court, even though they alter or conform to the substantive law, in relation to,

- (a) conduct of proceedings in the court;
- (b) joinder of claims and parties, and representation of parties;
- (c) commencement of proceedings and service of process in or outside Ontario;
- (d) discovery and other forms of disclosure before hearing, including their scope and their admissibility and use in a proceeding;
- (e) examination of witnesses in or out of court;
- (f) duties of clerks and other officers;

- (g) references of proceedings or issues in a proceeding and the powers of a person conducting a reference;
- (h) costs of proceedings;
- (i) enforcement of orders and process;
- (j) payment into and out of court;
- (k) any matter that is referred to in an Act as provided for by rules of court.

(2) Nothing in subsection (1) authorizes the making of rules that conflict with an Act, but rules may be made under subsection (1) supplementing the provisions of an Act in respect of practice and procedure. <sup>Idem</sup>

(3) The rules of court made under Part IV do not apply to proceedings in the Unified Family Court. 1984, c. 11, s. 51, *amended*. <sup>Idem</sup>

## SCHEDULE

Jurisdiction under the following statutory provisions:

	Statutes	Provisions
1.	Annulment of Marriages Act (Ontario) (Canada)	All
2.	Change of Name Act, 1986	All
3.	Child and Family Services Act, 1984	Parts III, VI and VII
4.	Children's Law Reform Act	All, except sections 60 and 61
5.	Divorce Act, 1985 (Canada)	All
6.	Education Act	Sections 29 and 30
7.	Family Law Act, 1986	All, except Part V
8.	Marriage Act	Sections 6 and 9
9.	Minors' Protection Act	Section 2
10.	Reciprocal Enforcement of Maintenance Orders Act, 1982	All
11.	Support and Custody Orders Enforcement Act, 1985	All
12.	Young Offenders Act (Canada)	All

## PART IV

## RULES OF COURT

Civil Rules  
Committee

**64.**—(1) The Civil Rules Committee is established and shall be composed of,

- (a) the Chief Justice of Ontario, the Associate Chief Justice of Ontario, the Chief Justice of the Ontario Court and the Chief Judge of the Ontario Court (Provincial Division);
- (b) one judge of the Court of Appeal, who shall be appointed by the Chief Justice of Ontario;
- (c) nine judges of the Ontario Court (General Division), who shall be appointed by the Chief Justice of the Ontario Court;
- (d) the Attorney General or a person designated by the Attorney General;
- (e) one law officer of the Crown, who shall be appointed by the Attorney General;
- (f) two persons employed in the administration of the courts, who shall be appointed by the Attorney General;
- (g) four barristers and solicitors, who shall be appointed by the Benchers of The Law Society of Upper Canada in convocation;
- (h) one barrister and solicitor, who shall be appointed by the Chief Justice of Ontario; and
- (i) four barristers and solicitors, who shall be appointed by the Chief Justice of the Ontario Court.

Idem

(2) The Chief Justice of Ontario shall preside over the Civil Rules Committee but, if the Chief Justice of Ontario is absent or so requests, another member designated by the Chief Justice of Ontario shall preside.

Tenure of  
office

(3) Each of the members of the Civil Rules Committee appointed under clauses (1) (b), (c), (e), (f), (g), (h) and (i) shall hold office for a period of three years and is eligible for reappointment.

(4) Where a vacancy occurs among the members appointed under clause (1) (b), (c), (e), (f), (g), (h) or (i), a new member similarly qualified may be appointed for the remainder of the unexpired term. Vacancies

(5) A majority of the members of the Civil Rules Committee constitutes a quorum. 1984, c. 11, s. 89, *amended*. Quorum

**65.**—(1) Subject to the approval of the Lieutenant Governor in Council, the Civil Rules Committee may make rules for the Court of Appeal and the Ontario Court (General Division) in relation to the practice and procedure of those courts in all civil proceedings, including family law proceedings. Civil Rules

(2) The Civil Rules Committee may make rules for the courts described in subsection (1), even though they alter or conform to the substantive law, in relation to, Idem

- (a) conduct of proceedings in the courts;
- (b) joinder of claims and parties, settlement of claims by or against persons under disability, whether or not a proceeding has been commenced in respect of the claim, the binding effect of orders and representation of parties;
- (c) commencement of proceedings, representation of parties by solicitors and service of process in or outside Ontario;
- (d) disposition of proceedings without a hearing and its effect and authorizing the Court of Appeal to determine in the first instance a special case arising in a proceeding commenced in the Ontario Court (General Division);
- (e) pleadings;
- (f) discovery and other forms of disclosure before hearing, including their scope and the admissibility and use of that discovery and disclosure in a proceeding;
- (g) examination of witnesses in or out of court;
- (h) jurisdiction of masters, including the conferral on masters of any jurisdiction of the Ontario Court (General Division), including jurisdiction under an Act, but not including the trial of actions or jurisdiction conferred by an Act on a judge;



- (i) jurisdiction and duties of officers;
- (j) motions and applications, including the hearing of motions in the absence of the public and prohibiting a party from making motions without leave;
- (k) preservation of rights of parties pending the outcome of litigation, including sale, recovery of possession or preservation of property;
- (l) interpleader;
- (m) preparation for trial and offers to settle and their legal consequences;
- (n) the mode and conduct of trials;
- (o) the appointment by the court of independent experts, their remuneration and the admissibility and use of their reports;
- (p) the discount rate to be used in determining the amount of an award in respect of future pecuniary damages;
- (q) references of proceedings or issues in a proceeding and the powers of a person conducting a reference;
- (r) costs of proceedings, including security for costs and a solicitor's liability for or disentitlement to costs;
- (s) enforcement of orders and process or obligations under the rules;
- (t) the time for and procedure on appeals and stays pending appeal;
- (u) payment into and out of court;
- (v) any matter that is referred to in an Act as provided for by rules of court.

Idem

(3) Nothing in subsection (1) or (2) authorizes the making of rules that conflict with an Act, but rules may be made under subsections (1) and (2) supplementing the provisions of an Act in respect of practice and procedure. 1984, c. 11, s. 90, *amended*.

Family Rules  
Committee

**66.**—(1) The Family Rules Committee is established and shall be composed of,

- (a) the Chief Justice of Ontario, the Associate Chief Justice of Ontario, the Chief Justice of the Ontario Court and the Chief Judge of the Ontario Court (Provincial Division);
- (b) the senior judge for the Unified Family Court;
- (c) one judge of the Court of Appeal, who shall be appointed by the Chief Justice of Ontario;
- (d) three judges of the Ontario Court (General Division), who shall be appointed by the Chief Justice of the Ontario Court;
- (e) four judges of the Ontario Court (Provincial Division), who shall be appointed by the Chief Judge of the Ontario Court (Provincial Division);
- (f) the Attorney General or a person designated by the Attorney General;
- (g) one law officer of the Crown, who shall be appointed by the Attorney General;
- (h) two persons employed in the administration of the courts, who shall be appointed by the Attorney General;
- (i) four barristers and solicitors, who shall be appointed by the Benchers of The Law Society of Upper Canada in convocation;
- (j) two barristers and solicitors, who shall be appointed by the Chief Justice of the Ontario Court; and
- (k) two barristers and solicitors, who shall be appointed by the Chief Judge of the Ontario Court (Provincial Division).

(2) The Chief Justice of Ontario shall preside over the Family Rules Committee but, if the Chief Justice of Ontario is absent or so requests, another member designated by the Chief Justice shall preside. Idem

(3) Each of the members of the Family Rules Committee appointed under clauses (1) (c), (d), (e), (g), (h), (i), (j) and (k) shall hold office for a period of three years and is eligible for reappointment. Tenure of office

## Vacancies

(4) Where a vacancy occurs among the members appointed under clause (1) (c), (d), (e), (g), (h), (i), (j) or (k), a new member similarly qualified may be appointed for the remainder of the unexpired term.

## Quorum

(5) A majority of the members of the Family Rules Committee constitutes a quorum. *New.*

## Family Rules

**67.**—(1) Subject to the approval of the Lieutenant Governor in Council, the Family Rules Committee may make rules for the Court of Appeal, the Ontario Court (General Division) and the Ontario Court (Provincial Division) in relation to the practice and procedure of those courts in proceedings under statutory provisions set out in the Schedule to Part III (Unified Family Court), except proceedings under the *Young Offenders Act* (Canada).

R.S.C. 1985,  
c. Y-1

## Idem

(2) Subsections 65 (2) and (3) apply with necessary modifications to the Family Rules Committee making rules for the courts described in subsection (1).

May modify  
civil rules

(3) The rules made by the Family Rules Committee may adopt, modify or exclude the rules made by the Civil Rules Committee.

Rules for  
*Young  
Offenders Act*

(4) Subject to the approval of the Lieutenant Governor in Council, the Family Rules Committee may prepare rules for the purpose of section 68 of the *Young Offenders Act* (Canada) for consideration by the Ontario Court (Provincial Division). *New.*

Criminal  
Rules  
Committee

**68.**—(1) The Criminal Rules Committee is established and shall be composed of,

- (a) the Chief Justice of Ontario, the Associate Chief Justice of Ontario, the Chief Justice of the Ontario Court and the Chief Judge of the Ontario Court (Provincial Division);
- (b) one judge of the Court of Appeal, who shall be appointed by the Chief Justice of Ontario;
- (c) three judges of the Ontario Court (General Division), who shall be appointed by the Chief Justice of the Ontario Court;
- (d) four judges of the Ontario Court (Provincial Division), who shall be appointed by the Chief Judge of the Ontario Court (Provincial Division);

- (e) the Co-ordinator of Justices of the Peace;
- (f) the Attorney General or a person designated by the Attorney General;
- (g) one law officer of the Crown, who shall be appointed by the Attorney General;
- (h) three Crown attorneys, deputy Crown attorneys or assistant Crown attorneys, who shall be appointed by the Attorney General;
- (i) two persons employed in the administration of the courts, who shall be appointed by the Attorney General;
- (j) two barristers and solicitors, who shall be appointed by the Benchers of The Law Society of Upper Canada in convocation;
- (k) one barrister and solicitor, who shall be appointed by the Chief Justice of Ontario;
- (l) one barrister and solicitor, who shall be appointed by the Chief Justice of the Ontario Court; and
- (m) one barrister and solicitor, who shall be appointed by the Chief Judge of the Ontario Court (Provincial Division).

(2) The Chief Justice of Ontario shall preside over the Criminal Rules Committee but, if the Chief Justice of Ontario is absent or so requests, another member designated by the Chief Justice of Ontario shall preside. Idem

(3) Each of the members of the Criminal Rules Committee appointed under clauses (1) (b), (c), (d), (e), (g), (h), (i), (j), (k), (l) and (m) shall hold office for a period of three years and is eligible for reappointment. Tenure of office

(4) Where a vacancy occurs among the members appointed under clause (1) (b), (c), (d), (e), (g), (h), (i), (j), (k), (l) or (m), a new member similarly qualified may be appointed for the remainder of the unexpired term. Vacancies

(5) A majority of the members of the Criminal Rules Committee constitutes a quorum. *New.* Quorum

**69.**—(1) Subject to the approval of the Lieutenant Governor in Council, the Criminal Rules Committee may prepare Criminal Rules



R.S.C. 1985,  
c. C-46 rules for the purposes of section 482 of the *Criminal Code* (Canada) for consideration by the Court of Appeal, the Ontario Court (General Division) and the Ontario Court (Provincial Division).

Provincial  
offences rules (2) Subject to the approval of the Lieutenant Governor in Council, the Criminal Rules Committee may make rules for the Court of Appeal, the Ontario Court (General Division) and the Ontario Court (Provincial Division) in relation to the practice and procedure of those courts in proceedings under the *Provincial Offences Act*. *New*.

R.S.O. 1980,  
c. 400

Idem (3) The Criminal Rules Committee may make rules under subsection (2),

- (a) regulating any matters relating to the practice and procedure of proceedings under the *Provincial Offences Act*;
- (b) prescribing forms;
- (c) regulating the duties of the employees of the courts;
- (d) prescribing and regulating the procedures under any Act that confers jurisdiction under the *Provincial Offences Act* on the Ontario Court (Provincial Division) or a judge or justice of the peace sitting in it;
- (e) prescribing any matter relating to proceedings under the *Provincial Offences Act* that is referred to in an Act as provided for by the rules of court. 1984, c. 11, s. 73 (3), *amended*.

**3. Sections 92 and 93 of the said Act are repealed and the following substituted therefor:**

Ontario  
Courts  
Management  
Advisory  
Committee

**92.**—(1) There shall be a committee, known as the Ontario Courts Management Advisory Committee, composed of,

- (a) the Chief Justice of Ontario, the Associate Chief Justice of Ontario, the Chief Justice of the Ontario Court and the Chief Judge of the Ontario Court (Provincial Division);
- (b) the Attorney General, the Deputy Attorney General, the Assistant Deputy Attorney General responsible for courts administration and the

Assistant Deputy Attorney General responsible for criminal law;

(c) two barristers and solicitors appointed by the Benchers of the Law Society of Upper Canada in convocation and two barristers and solicitors appointed by the presidents of the county and district law associations; and

(d) not more than four other persons, appointed by the Attorney General with the concurrence of,

(i) all of the judges mentioned in clause (a), and

(ii) all of the barristers and solicitors appointed under clause (c).

(2) The following persons shall preside over meetings of the Committee, by rotation at intervals fixed by the Committee: Who to preside

1. A judge mentioned in clause (1) (a) selected by the judges mentioned in that clause.
2. The Attorney General or a person mentioned in clause (1) (b) and designated by the Attorney General.
3. A barrister and solicitor appointed under clause (1) (c) selected by the barristers and solicitors appointed under that clause.
4. A person appointed under clause (1) (d) selected by the persons appointed under that clause.

(3) The function of the Committee is to consider and recommend to the appropriate authority policies and procedures to promote the better administration of justice and the effective use of resources, including judicial and other personnel, in the public interest. *New.* Function of Committee

**92a.**—(1) For judicial purposes, Ontario is divided into the regions prescribed under subsection (2). Regions for judicial purposes

(2) The Lieutenant Governor in Council may make regulations prescribing regions for the purpose of this Act. *New.* Regulations

**92b.**—(1) There shall be a committee in each region, known as the Regional Courts Management Advisory Committee, composed of, Regional Courts Management Advisory Committee

- (a) the regional senior judge of the Ontario Court (General Division) and the regional senior judge of the Ontario Court (Provincial Division);
- (b) the regional director of courts administration for the Ministry of the Attorney General and the regional director of Crown attorneys;
- (c) two barristers and solicitors appointed jointly by the presidents of the county and district law associations in the region; and
- (d) not more than two other persons, appointed by the Attorney General with the concurrence of,
  - (i) both of the judges mentioned in clause (a), and
  - (ii) both of the barristers and solicitors appointed under clause (c).

Who to  
preside

(2) The following persons shall preside over meetings of the Committee, by rotation at intervals fixed by the Committee:

- 1. A judge mentioned in clause (1) (a) selected by the judges mentioned in that clause.
- 2. An official mentioned in clause (1) (b) selected by the officials mentioned in that clause.
- 3. A barrister and solicitor appointed under clause (1) (c) selected by the barristers and solicitors appointed under that clause.
- 4. A person appointed under clause (1) (d) selected by the persons appointed under that clause.

Function of  
Committee

(3) The function of the Committee is to consider and recommend to the appropriate authority policies and procedures for the region to promote the better administration of justice and the effective use of resources, including judicial and other personnel, in the public interest.

Frequency of  
meetings

(4) The Committee shall meet at least four times each year.  
*New.*

Powers of  
chief or  
regional  
senior judge

**93.**—(1) The powers and duties of a judge who has authority to supervise and direct the sittings and the assignment of the judicial duties of his or her court include the following:

1. Determining the sittings of the court.
2. Assigning judges to the sittings.
3. Assigning cases to individual judges.
4. Determining the sitting schedules and places of sittings for individual judges.
5. Determining the total annual, monthly and weekly workload of individual judges.
6. Preparing trial lists and assigning courtrooms, to the extent necessary to control the determination of who is assigned to hear particular cases. 1984, c. 11, s. 93, *amended*.

(2) Subsection (1) applies with necessary modifications in respect of supervising and directing the sittings and assigning the judicial duties of masters. *New.*

Powers in respect of masters

**4. Section 94 of the said Act is amended by adding thereto the following subsections:**

(2) A power or duty given to a registrar, sheriff, court clerk, assessment officer or official examiner under an Act, regulation or rule of court may be exercised or performed by a person or class of persons to whom the power or duty has been assigned by the Deputy Attorney General or a person designated by the Deputy Attorney General.

Exercise of powers of registrar, sheriff, etc.

(3) Subsection (2) applies in respect of an Act, regulation or rule of court made under the authority of the Legislature or of the Parliament of Canada.

Idem

**5. The said Act is amended by adding thereto the following section:**

**95a.** Documents and other material that are no longer required in a court office shall be disposed of in accordance with the directions of the Deputy Attorney General, subject to the approval of,

Destruction of documents

- (a) in the Court of Appeal, the Chief Justice of Ontario;
- (b) in the Ontario Court (General Division), the Chief Justice of the Ontario Court;



(c) in the Ontario Court (Provincial Division), the Chief Judge of the Provincial Division;

(d) in the Unified Family Court, the Senior Judge for the Unified Family Court. 1984, c. 11, s. 101 (4), *amended*.

**6. Section 98 of the said Act is repealed and the following substituted therefor:**

Liability of  
judges

**98.** Every judge of a court in Ontario and every master has the same immunity from liability as a judge of the Ontario Court (General Division).

**7. Section 99 of the said Act is repealed and the following substituted therefor:**

Compensation for  
statutory  
duties

**99.** Every judge who was a judge of the Supreme Court or of the District Court before this section comes into force shall be paid out of the Consolidated Revenue Fund the annual sum of \$3,000, payable quarterly, as compensation for the services the judge is called on to render by any Act of the Legislature in addition to his or her ordinary duties.

**8. Subsection 100 (1) of the said Act is amended by striking out "Supreme Court or the District Court" in the first and second lines and inserting in lieu thereof "Court of Appeal or the Ontario Court (General Division)".**

**9. The said Act is further amended by adding thereto the following sections:**

Judges'  
gowns

**100a.** The Lieutenant Governor in Council may make regulations respecting the form of the gown to be worn in court by all judges appointed after this section comes into force.

How certain  
judges to be  
addressed

**100b.—**(1) Every judge of the Ontario Court (General Division) and the Unified Family Court may be addressed as "Your Honour" or as "(*Mr. or Mme.*) Justice (*naming the judge*)".

Idem

(2) A judge appointed to the High Court of Justice before this section comes into force may elect to be addressed according to the practice in existence before this section comes into force.

**10. Section 101 of the said Act is repealed and the following substituted therefor:**

**101.**—(1) Every person who was a master of the Supreme Court before this section comes into force is a master of the Ontario Court (General Division). *New.* Masters

(2) Every master has the jurisdiction conferred by the rules of court in proceedings in the General Division. 1984, c. 11, s. 20 (3). Jurisdiction

(3) Sections 42 to 49 apply with necessary modifications to masters in the same manner as to provincial judges. 1984, c. 11, s. 20 (11), *amended.* Application of ss. 42-49

(4) The right of a master to continue in office under subsection 43 (3) is subject to the approval of the Chief Justice of the Ontario Court and not of the Chief Judge of the Provincial Division. *New.* Idem

**101a.**—(1) Money paid into the Ontario Court (General Division) shall be paid to the Accountant of the Ontario Court and such money and securities in which the money is invested are vested in the Accountant. Money vested in Accountant

(2) Mortgages and other securities taken under an order of the Ontario Court (General Division) and instruments taken as security in respect of a proceeding in the Ontario Court (General Division) shall be taken in the name of the Accountant and shall be deposited in his or her office, except where an order provides otherwise. Security held by Accountant

(3) The Accountant has no duty or obligation in respect of the instruments deposited under subsection (2) except as custodian of the instruments, unless an order of the court provides otherwise. Idem

(4) The Provincial Auditor shall examine and report on the accounts and financial transactions of the Accountant. 1984, c. 11, s. 22, *amended.* Audit by Provincial Auditor

**101b.**—(1) The finance committee is continued and shall be composed of three persons appointed by the Lieutenant Governor in Council. Finance committee

(2) The finance committee has control and management of the money in the Ontario Court (General Division), the investment of the money and the securities in which it is invested. Management of court funds

(3) Money that is available for investment shall be invested in investments in which the Treasurer of Ontario may invest Investment of court funds

R.S.O. 1980, public money under section 3 of the *Financial Administration Act*.  
c. 161

Employment of trust company (4) The finance committee may employ a trust company to make the investments or act as custodian of the securities purchased as investments.

Interest (5) The finance committee may provide for the payment of interest on money paid into the General Division and may fix the rate of interest so paid.

Reserve funds (6) The finance committee may establish such reserve funds as it considers necessary. 1984, c. 11, s. 23, *amended*.

**11. Subsection 102 (3) of the said Act is amended by striking out "Rules of Civil Procedure" in the third line and inserting in lieu thereof "rules of court".**

**12. Section 103 of the said Act is repealed and the following substituted therefor:**

Assessment officers **103.**—(1) The Lieutenant Governor in Council, on the recommendation of the Attorney General, may appoint assessment officers.

Idem (2) Every master is an assessment officer.

Jurisdiction (3) Every assessment officer has jurisdiction to assess costs in a proceeding in any court.

Appeal from assessment of costs before tribunal (4) Where costs of a proceeding before a tribunal other than a court are to be assessed by an assessment officer,

(a) the rules of court governing the procedure on an assessment of costs apply with necessary modifications; and

(b) an appeal lies to the Ontario Court (General Division) from a certificate of assessment of the costs if an objection was served in respect of the issue appealed in accordance with the rules of court.

**13.—(1) Subsection 104 (1) of the said Act is repealed.**

(2) Subsection 104 (2) of the said Act is amended by striking out "additional" in the second line.

**14.—(1) Subsection 108 (2) of the said Act is amended by striking out "and" where it occurs the second time in the third**



line and by inserting after "hearing)" in the fourth line "and 153a (where procedures not provided)".

(2) Subsection 108 (3) of the said Act, as amended by the Statutes of Ontario, 1989, chapter 24, section 4, is repealed and the following substituted therefor:

(3) Sections 122 (constitutional questions), 135, 136 (language of proceedings), 142 (judge sitting on appeal), 146 (prohibition against photography at court hearings), 152a (arrest and committal warrants enforceable by police) and 153a (where procedures not provided) also apply to proceedings under the *Provincial Offences Act* and, for the purpose, a reference in one of those sections to a judge includes a justice of the peace presiding in the Ontario Court (Provincial Division).

Application  
to provincial  
offences

R.S.O. 1980,  
c. 400

15. Subsection 109 (3) of the said Act is repealed and the following substituted therefor:

(3) Only the Court of Appeal, the Unified Family Court and the Ontario Court (General Division), may grant equitable relief, unless otherwise provided.

Jurisdiction  
for equitable  
relief

16. Section 110 of the said Act is amended by striking out "Supreme Court, the District Court and the Unified Family Court" in the first and second lines and inserting in lieu thereof "Court of Appeal, the Unified Family Court and the Ontario Court (General Division)".

17. Subsection 114 (1) of the said Act is amended by striking out "Supreme Court, the District Court or the Unified Family Court" in the first and second lines and inserting in lieu thereof "Unified Family Court or the Ontario Court (General Division)".

18.—(1) Subsection 118 (1) is repealed and the following substituted therefor:

(1) In this section, "health practitioner" means a person licensed to practise medicine or dentistry in Ontario or any other jurisdiction, a psychologist registered under the *Psychologists Registration Act* or a person certified or registered as a psychologist by another jurisdiction.

"health  
practitioner"  
defined  
R.S.O. 1980,  
c. 404

(2) Subsection 118 (2) of the said Act is amended by striking out "medical" in the fourth line and inserting in lieu thereof "health".



(3) Subsection 118 (5) of the said Act is amended by striking out “medical” in the second line and inserting in lieu thereof “health”.

**19.** Subsections 120 (2) and (3) of the said Act are repealed and the following substituted therefor:

Transfer  
from Small  
Claims Court

(2) A proceeding in the Small Claims Court shall not be transferred under clause (1) (d) to the Ontario Court (General Division) without the consent of the plaintiff in the proceeding in the Small Claims Court.

Idem

(2a) A proceeding in the Small Claims Court shall not be required under subclause (1) (e) (ii) to be asserted by way of counterclaim in a proceeding in the Ontario Court (General Division) without the consent of the plaintiff in the proceeding in the Small Claims Court.

Motions

(3) The motion shall be made to a judge of the Ontario Court (General Division).

**20.—**(1) Subsection 121 (1) of the said Act is amended by striking out “a Supreme Court or District Court action” in the first line and inserting in lieu thereof “an action in the Ontario Court (General Division) that is not in the Small Claims Court”.

(2) Subsection 121 (2) of the said Act is amended by striking out “Actions in which a claim is made for any of the following kinds of relief shall be heard without a jury:” in the first and second lines and inserting in lieu thereof “The issues of fact and the assessment of damages in an action shall be tried without a jury in respect of a claim for any of the following kinds of relief:”.

(3) Paragraph 3 of the said subsection 121 (2) is amended by striking out “*Family Law Reform Act*” in the first and second lines and inserting in lieu thereof “*Family Law Act, 1986*”.

**21.** Subsection 122 (2) of the said Act is amended by striking out “Rules of Civil Procedure” in the second line and inserting in lieu thereof “rules of court”.

**22.** Subsection 124 (2) of the said Act is repealed and the following substituted therefor:

Idem

(2) Mutual debts may be set off against each other even if they are of a different nature.

**23.** Clause 129 (b) of the said Act is amended by striking out "*Family Law Reform Act*" in the first line and inserting in lieu thereof "*Family Law Act, 1986*".

**24.—**(1) Clause 133 (1) (a) of the said Act is amended by striking out "the" in the first line and inserting in lieu thereof "a".

(2) Clause 133 (1) (b) of the said Act is amended by striking out "local judge or".

**25.—**(1) Subclause 136 (1) (a) (ii) of the said Act is repealed and the following substituted therefor:

(ii) the area that comprised the County of Welland as it existed on the 31st day of December, 1969,

(iia) The Regional Municipality of Ottawa-Carleton,

(iib) The Municipality of Metropolitan Toronto.

(2) Subsection 136 (6) of the said Act is amended by striking out "Provincial Court (Family Division) or the Provincial Court (Civil Division)" in the second and third lines and inserting in lieu thereof "Ontario Court (Provincial Division) or the Small Claims Court".

(3) Subsection 136 (7) of the said Act is amended by striking out "in the Provincial Offences Court where it is" in the second and third lines and inserting in lieu thereof "under the *Provincial Offences Act* in".

**26.** Subsection 137 (2) of the said Act is amended by striking out "the Registrar of the Supreme Court" in the first and second lines and inserting in lieu thereof "a person designated by the Deputy Attorney General".

**27.—**(1) Subsection 150 (1) of the said Act is amended by striking out "Supreme Court" in the first line and in the last line and inserting in lieu thereof in each instance "Ontario Court (General Division)".

(2) Subsection 150 (3) of the said Act is amended by striking out "Supreme Court" in the fourth line and inserting in lieu thereof "Ontario Court (General Division)".

**28.** The said Act is further amended by adding thereto the following sections:

Civil orders  
directed to  
sheriffs

**150a.**—(1) Unless an Act provides otherwise, orders of a court arising out of a civil proceeding and enforceable in Ontario shall be directed to a sheriff for enforcement.

Police to  
assist sheriff

(2) A sheriff who believes that the execution of an order may give rise to a breach of the peace may require a police officer to accompany the sheriff and assist in the execution of the order.

Where  
procedures  
not provided

**153a.** Jurisdiction conferred on a court, a judge or a justice of the peace shall, in the absence of express provision for procedures for its exercise in any Act, regulation or rule, be exercised in any manner consistent with the due administration of justice. 1984, c. 11, s. 62, *amended*.

**29.** Sections 157 and 158 of the said Act are repealed and the following substituted therefor:

Continuation  
of  
proceedings  
in former  
courts

**157.** A proceeding pending in a court set out in column 1 of the Table when this section comes into force is continued in the court set out opposite to it in column 2.

TABLE

	<i>Column 1</i>	<i>Column 2</i>
1.	High Court of Justice	Ontario Court (General Division)
2.	District Court	Ontario Court (General Division)
3.	surrogate court	Ontario Court (General Division)
4.	Provincial Court (Criminal Division)	Ontario Court (Provincial Division)
5.	Provincial Court (Family Division)	Ontario Court (Provincial Division)
6.	Provincial Offences Court	Ontario Court (Provincial Division)
7.	Provincial Court (Civil Division)	Small Claims Court

Former Chief  
Judge, etc.

**158.**—(1) A provincial judge who was a Chief Judge, Associate Chief Judge or senior judge of the Provincial Court (Criminal Division), the Provincial Court (Family Division) or the Provincial Court (Civil Division) immediately before this section comes into force shall continue to hold the office of provincial judge, is entitled to retain the title of Chief Judge, Associate Chief Judge or senior judge, as the case may be, and is entitled to an annual salary equal to the greater of,

- (a) the current annual salary of a provincial judge; or
- (b) the annual salary the judge received immediately before this section comes into force.

(2) A master who was the Senior Master immediately before this section comes into force shall continue to hold the office of master, is entitled to retain the title of Senior Master and is entitled to an annual salary equal to the greater of,

Former  
Senior  
Master

- (a) the current annual salary of a master; or
- (b) the annual salary the master received immediately before this section comes into force.

**158a.**—(1) A document filed in court that refers to a court set out in column 1 of the Table to section 160 is not by that reason invalid and shall be deemed to refer to the court set out opposite to it in column 2.

Documents  
filed

(2) Subsection (1) is repealed one year after this section comes into force.

Subsection  
repealed

**30. Section 159 of the said Act is repealed and the following substituted therefor:**

**159.** Where, by an Act or regulation, jurisdiction is conferred on a particular court set out in column 1 of the Table, the jurisdiction shall be deemed to be conferred on the corresponding court set out in column 2 sitting in the county or district of the court named.

Reference to  
territorial  
jurisdiction

TABLE

<i>Column 1</i>	<i>Column 2</i>
1. county or district court	Ontario Court (General Division)
2. surrogate court	Ontario Court (General Division)
3. provincial court (family division)	Ontario Court (Provincial Division)
4. provincial offences court	Ontario Court (Provincial Division)
5. small claims court	Small Claims Court

**31. Section 160 of the said Act is repealed and the following substituted therefor:**



References to  
courts

**160.** A reference in an Act, rule or regulation to a court set out in column 1 of the Table is deemed to be a reference to the court set out opposite to it in column 2.

TABLE

	<i>Column 1</i>	<i>Column 2</i>
1.	Supreme Court	Ontario Court (General Division)
2.	High Court of Justice	Ontario Court (General Division)
3.	county or district court	Ontario Court (General Division)
4.	District Court	Ontario Court (General Division)
5.	surrogate court	Ontario Court (General Division)
6.	small claims court	Small Claims Court
7.	Provincial Court (Civil Division)	Small Claims Court
8.	provincial court (criminal division)	Ontario Court (Provincial Division)
9.	Provincial Court (Criminal Division)	Ontario Court (Provincial Division)
10.	provincial court (family division)	Ontario Court (Provincial Division)
11.	Provincial Court (Family Division)	Ontario Court (Provincial Division)
12.	provincial offences court	Ontario Court (Provincial Division)
13.	Provincial Offences Court	Ontario Court (Provincial Division)

Changes in  
terminology

**160a.**—(1) A reference in any Act, rule or regulation, or order or other court process, to a term set out in column 1 of the Table, or any form thereof, is deemed to refer to the corresponding term set out opposite thereto in column 2.

TABLE

	<i>Column 1</i>	<i>Column 2</i>
1.	Accountant of the Supreme Court	Accountant of the Ontario Court
2.	administrator <i>ad litem</i>	litigation administrator
3.	certificate of <i>lis pendens</i>	certificate of pending litigation
4.	conduct money	attendance money
5.	guardian <i>ad litem</i>	litigation guardian
6.	judicial district	county or district

7.	local judge of the High Court	judge of the Ontario Court (General Division)
8.	local judge of the Supreme Court	judge of the Ontario Court (General Division)
9.	next friend	litigation guardian
10.	originating motion	application
11.	originating notice	notice of application
12.	praecipe	requisition
13.	provisional judicial district	territorial district
14.	a registrar of a surrogate court	the local registrar of the Ontario Court (General Division)
15.	Rules of Civil Procedure	rules of court
16.	Rules Committee	applicable rules committee
17.	Rules Committee of the Supreme and District Courts	applicable rules committee
18.	Rules of Practice and Procedure of the Supreme Court of Ontario made by the Rules Committee	rules of court
19.	special examiner	official examiner
20.	Surrogate Clerk for Ontario	Estate Registrar for Ontario
21.	taxation of costs	assessment of costs
22.	taxing officer	assessment officer
23.	writ of <i>feri facias</i>	writ of seizure and sale
24.	writ of summons	statement of claim or notice of action

(2) A reference in any Act, rule or regulation to the surrogate registrar for a particular county or district is deemed to be a reference to the local registrar of the Ontario Court (General Division) for that county or district.

Idem,  
surrogate  
registrar for  
a county

(3) A reference in any Act, rule or regulation to the clerk of a county or district court of a particular county or district is deemed to be a reference to the local registrar of the Ontario Court (General Division) for that county or district.

Idem, clerk  
of a county

(4) A reference in any Act, rule or regulation to an order, direction or decision filed with the Registrar of the Supreme Court is deemed to be a reference to an order, direction or decision filed with the Ontario Court (General Division).

Idem, order  
filed with the  
Registrar

**160b.** Where an Act, rule or regulation provides that a document is to be filed with, certified to, forwarded to or transmitted to the Supreme Court or the Registrar of the Supreme Court for the purpose of an appeal to the Divisional

Documents  
filed for  
appeal to  
Divisional  
Court

Court, that document shall be filed with, certified to, forwarded to or transmitted to, as the case may be, the Divisional Court.

References to  
counties for  
judicial  
purposes

**160c.**—(1) A reference in this Act or any other Act, rule or regulation to a county or district for judicial purposes is deemed to be a reference to the corresponding area that, for municipal or territorial purposes, comprises the county, district, union of counties or regional, district or metropolitan municipality.

Separated  
municipalities

(2) For the purpose of subsection (1), every city, town and other municipality is united to and forms part of the county in which it is situate.

Exceptions

(3) Subsection (1) is subject to the following:

1. A reference in an Act or regulation to a county or district for judicial purposes is, in the case of The Regional Municipality of Haldimand-Norfolk, deemed to be a reference to the following areas:
  - i. All the area of the County of Haldimand as it existed on the 31st day of March, 1974.
  - ii. All the area of the County of Norfolk as it existed on the 31st day of March, 1974.
2. A reference in an Act or regulation to a county or district for judicial purposes is, in the case of The Regional Municipality of Niagara, deemed to be a reference to the following areas:
  - i. All the area of the County of Lincoln as it existed on the 31st day of December, 1969.
  - ii. All the area of the County of Welland as it existed on the 31st day of December, 1969.
3. A reference in an Act or regulation to a county or district for judicial purposes is, in the case of The Regional Municipality of Sudbury and the Territorial District of Sudbury, deemed to be a reference to all the area in The Regional Municipality of Sudbury and in the Territorial District of Sudbury.
4. A reference in an Act or regulation to a county or district for judicial purposes is, in the case of an area described below, deemed to be a reference to all the area in the areas described below:

- i. All the area in the County of Victoria.
- ii. All the area in the County of Haliburton.
- iii. All the area in any part of the townships of Sherborne, McClintock, Livingstone, Lawrence and Nightingale located in Algonquin Park, so long as the part remains part of Algonquin Park.

**32.** Section 212 of the said Act is repealed.

**33.** This Act comes into force on a day to be named by proclamation of the Lieutenant Governor. Commence-  
ment

**34.** The short title of this Act is the *Courts of Justice Amendment Act, 1989*. Short title









# Bill 2

*(Chapter 55  
Statutes of Ontario, 1989)*

## **An Act to amend the Courts of Justice Act, 1984**

**The Hon. I. Scott**  
*Attorney General*

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<i>1st Reading</i>	May 1st, 1989
<i>2nd Reading</i>	June 14th, 1989
<i>3rd Reading</i>	November 14th, 1989
<i>Royal Assent</i>	November 15th, 1989

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**Bill 2****1989****An Act to amend the Courts of Justice Act, 1984**

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

**1. Section 1 of the *Courts of Justice Act, 1984*, being chapter 11, is repealed and the following substituted therefor:**

**1. In this Act,**

Definitions

“action” means a civil proceeding that is not an application and includes a proceeding commenced by,

- (a) claim,
- (b) statement of claim,
- (c) notice of action,
- (d) counterclaim,
- (e) crossclaim,
- (f) third or subsequent party claim, or
- (g) divorce petition or counterpetition;

“application” means a civil proceeding that is commenced by notice of application or by application;

“defendant” means a person against whom an action is commenced;

“hearing” includes a trial;

“motion” means a motion in a proceeding or an intended proceeding;

“order” includes a judgment or decree;

“plaintiff” means a person who commences an action;

“region” means a region prescribed under section 92a. 1984, c. 11, s. 1, *amended*.

**2. Parts I and II, Part III, as amended by the Statutes of Ontario, 1984, chapter 55, section 213, 1984, chapter 64, section 1, 1985, chapter 1, section 4, 1986, chapter 7, section 15 and 1987, chapter 1, sections 1, 2 and 3, Part IV, as amended by the Statutes of Ontario, 1984, chapter 55, section 213, 1984, chapter 64, sections 2, 3, 4 and 5 and 1987, chapter 1, sections 4, 5 and 6 and Part V, as amended by the Statutes of Ontario, 1984, chapter 64, sections 6 and 7, of the said Act are repealed and the following substituted therefor:**

## PART I

### COURT OF APPEAL FOR ONTARIO

Court of  
Appeal

**2.—**(1) The branch of the Supreme Court of Ontario named the Court of Appeal for Ontario is continued as a superior court of record named the Court of Appeal for Ontario.

Idem

(2) In exercising its jurisdiction, the Court of Appeal has all the power and authority historically exercised by courts of common law and equity in England and Ontario. 1984, c. 11, s. 2, *amended*.

Composition  
of court

**3.—**(1) The Court of Appeal shall consist of,

- (a) the Chief Justice of Ontario, who shall be president of the court;
- (b) the Associate Chief Justice of Ontario; and
- (c) such number of other judges as is fixed under subsection (2), to be called justices of appeal. 1984, c. 11, s. 3 (1), *amended*.

Number of  
judges

(2) The Lieutenant Governor in Council may by regulation fix the number of judges of the Court of Appeal who are in addition to the Chief Justice and the Associate Chief Justice.

Idem

(3) A reduction in the number of judges does not affect appointments existing at the time of the reduction. *New*.

Additional  
judges

(4) There shall be such additional offices of judge of the Court of Appeal as are from time to time required, to be held by Chief Justices of Ontario and Associate Chief Justices of

Ontario who have elected under the *Judges Act* (Canada) to perform only the duties of a judge of the Court of Appeal. 1984, c. 11, s. 6 (1), *amended*. R.S.C. 1985, c. J-1

(5) There shall be such additional offices of supernumerary judge of the Court of Appeal as are from time to time required, to be held by judges of the Court of Appeal who have elected under the *Judges Act* (Canada) to hold office only as a supernumerary judge of the court. 1984, c. 11, s. 6 (3), *amended*. Super-numerary judges

4.—(1) The Chief Justice of Ontario, with the concurrence of the Chief Justice of the Ontario Court, may assign a judge of the Ontario Court (General Division) to perform the work of a judge of the Court of Appeal. 1984, c. 11, s. 9 (2), *amended*. Assignment of judges from General Division

(2) A judge of the General Division is, by virtue of his or her office, a judge of the Court of Appeal and has all the jurisdiction, power and authority of a judge of the Court of Appeal. 1984, c. 11, s. 8, *amended*. General Division judges

5.—(1) The Chief Justice of Ontario has general supervision and direction over the sittings of the Court of Appeal and the assignment of the judicial duties of the court. 1984, c. 11, s. 18 (5). Powers and duties of Chief Justice

(2) If the Chief Justice of Ontario is absent from Ontario or is for any reason unable to act, his or her powers and duties shall be exercised and performed by the Associate Chief Justice of Ontario. Absence of Chief Justice

(3) If the Chief Justice of Ontario and the Associate Chief Justice of Ontario are both absent from Ontario or for any reason unable to act, the powers and duties of the Chief Justice shall be exercised and performed by a judge of the Court of Appeal designated by the Chief Justice or Associate Chief Justice. 1984, c. 11, s. 3 (2), *amended*. Absence of Associate Chief Justice

6.—(1) An appeal lies to the Court of Appeal from, Court of Appeal jurisdiction

(a) an order of the Divisional Court, on a question that is not a question of fact alone, with leave as provided in the rules of court;

(b) a final order of a judge of the Ontario Court (General Division), except an order referred to in clause 18 (1) (a);



- (c) a certificate of assessment of costs issued in a proceeding in the Court of Appeal, on an issue in respect of which an objection was served under the rules of court. 1984, c. 11, s. 17 (1), *amended*.

Combining of  
appeals from  
other courts

(2) The Court of Appeal has jurisdiction to hear and determine an appeal that lies to the Divisional Court or the Ontario Court (General Division) if an appeal in the same proceeding lies to and is taken to the Court of Appeal.

Idem

(3) The Court of Appeal may, on motion, transfer an appeal that has already been commenced in the Divisional Court or the Ontario Court (General Division) to the Court of Appeal for the purpose of subsection (2). 1984, c. 11, s. 17 (2), *amended*.

Composition  
of court for  
hearings

**7.**—(1) A proceeding in the Court of Appeal shall be heard and determined by not fewer than three judges sitting together, and always by an uneven number of judges. 1984, c. 11, s. 18 (1), *amended*.

Idem,  
motions

(2) A motion in the Court of Appeal and an appeal under clause 6 (1) (c) shall be heard and determined by one judge.

Idem

(3) Subsection (2) does not apply to a motion for leave to appeal, a motion to quash an appeal or any other motion that is specified by the rules of court.

Idem

(4) A judge assigned to hear and determine a motion may adjourn the motion to a panel of the Court of Appeal.

Idem

(5) A panel of the Court of Appeal may, on motion, set aside or vary the decision of a judge who hears and determines a motion. 1984, c. 11, s. 18 (3), *amended*.

References to  
Court of  
Appeal

**8.**—(1) The Lieutenant Governor in Council may refer any question to the Court of Appeal for hearing and consideration.

Opinion of  
court

(2) The court shall certify its opinion to the Lieutenant Governor in Council, accompanied by a statement of the reasons for it, and any judge who differs from the opinion may certify his or her opinion and reasons in the same manner.

Submissions  
by Attorney  
General

(3) On the hearing of the question, the Attorney General of Ontario is entitled to make submissions to the court.

Idem

(4) The Attorney General of Canada shall be notified and is entitled to make submissions to the court if the question relates to the constitutional validity or constitutional applica-

bility of an Act, or of a regulation or by-law made under an Act, of the Parliament of Canada or the Legislature.

(5) The court may direct that any person interested, or any one or more persons as representatives of a class of persons interested, be notified of the hearing and be entitled to make submissions to the court. Notice

(6) If an interest affected is not represented by counsel, the court may request counsel to argue on behalf of the interest and the reasonable expenses of counsel shall be paid by the Treasurer of Ontario. Appointment of counsel

(7) The opinion of the court shall be deemed to be a judgment of the court and an appeal lies from it as from a judgment in an action. 1984, c. 11, s. 19. Appeal

## PART II

### ONTARIO COURT OF JUSTICE

**9.—**(1) The Ontario Court of Justice is established. Ontario Court

(2) The Ontario Court shall consist of two divisions, the General Division and the Provincial Division. *New.* Divisions

### ONTARIO COURT (GENERAL DIVISION)

**10.—**(1) The branch of the Supreme Court of Ontario named the High Court of Justice for Ontario is continued as a superior court of record named the Ontario Court (General Division). General Division

(2) The General Division has all the jurisdiction, power and authority historically exercised by courts of common law and equity in England and Ontario. 1984, c. 11, s. 2 (1), *amended.* Idem

**11.—**(1) The General Division shall consist of, Composition of General Division

(a) the Chief Justice of the Ontario Court, who shall be president of the Ontario Court;

(b) a regional senior judge of the General Division for each region;

(c) a senior judge of the General Division for the Unified Family Court; and

- (d) such number of judges of the General Division as is fixed under clause 52 (1) (a). 1984, c. 11, s. 4 (1), *amended*.

Additional  
judges

(2) There shall be such additional offices of judge of the General Division as are from time to time required, to be held by Chief Justices of the Ontario Court and regional senior judges of the General Division who have elected under the *Judges Act* (Canada) to perform only the duties of a judge of the Ontario Court. 1984, c. 11, s. 6 (1), *amended*.

R.S.C. 1985,  
c. J-1

Super-  
numerary  
judges

(3) There shall be such additional offices of supernumerary judge of the General Division as are from time to time required, to be held by judges of the General Division who have elected under the *Judges Act* (Canada) to hold office only as a supernumerary judge of that division. 1984, c. 11, s. 6 (3), *amended*.

Assignment  
of judges  
from Court  
of Appeal

**12.**—(1) The Chief Justice of Ontario, with the concurrence of the Chief Justice of the Ontario Court, may assign a judge of the Court of Appeal to perform the work of a judge of the General Division. 1984, c. 11, s. 9 (1), *amended*.

Court of  
Appeal  
judges

(2) A judge of the Court of Appeal is, by virtue of his or her office, a judge of the General Division and has all the jurisdiction, power and authority of a judge of the General Division. 1984, c. 11, s. 8, *amended*.

Powers and  
duties of  
Chief Justice  
of Ontario  
Court

**13.**—(1) The Chief Justice of the Ontario Court shall direct and supervise the sittings of the Ontario Court (General Division) and the assignment of its judicial duties.

Regional  
senior  
judges,  
General  
Division

(2) A regional senior judge of the General Division shall, subject to the authority of the Chief Justice of the Ontario Court, exercise the powers and perform the duties of the Chief Justice in respect of the General Division in his or her region.

Delegation

(3) A regional senior judge of the General Division may delegate to a judge of the General Division in his or her region the authority to exercise specified functions. *New*.

Absence of  
Chief Justice  
of Ontario  
Court

(4) If the Chief Justice of the Ontario Court is absent from Ontario or is for any reason unable to act, his or her powers and duties shall be exercised and performed by a regional senior judge of the General Division designated by the Chief Justice of the Ontario Court. 1984, c. 11, s. 4 (3), *amended*.

Absence of  
regional  
senior judge  
of General  
Division

(5) The powers and duties of a regional senior judge of the General Division who is absent from Ontario or is for any rea-



son unable to act shall be exercised and performed by a judge of the General Division designated by the Chief Justice of the Ontario Court.

(6) The Chief Justice of the Ontario Court may hold meetings with the regional senior judges of the General Division in order to consider any matters concerning sittings of the General Division and the assignment of its judicial duties. *New.*

Meetings with regional senior judges

**14.—**(1) The Chief Justice of the Ontario Court shall assign every judge of the General Division to a region and may re-assign a judge from one region to another.

Judges assigned to regions

(2) There shall be at least one judge of the General Division assigned to each county and district.

At least one judge in each county

(3) No judge of the General Division who was a judge of the High Court of Justice or the District Court of Ontario before this section comes into force shall be assigned without his or her consent to a region other than the region in which he or she resided immediately before this section comes into force.

High Court and District Court judges

(4) Subsections (1) to (3) do not prevent the temporary assignment of a judge to a location anywhere in Ontario.

*New.* Idem

**15.** A proceeding in the General Division shall be heard and determined by one judge of the General Division. 1984, c. 11, s. 14 (1), *amended.*

Composition of court for hearings

**16.** An appeal lies to the General Division from,

Appeals to General Division

(a) an interlocutory order of a master;

(b) a certificate of assessment of costs issued in a proceeding in the General Division, on an issue in respect of which an objection was served under the rules of court. 1984, c. 11, s. 13 (2), *amended.*

#### DIVISIONAL COURT

**17.—**(1) There shall be a branch of the General Division to be known as the Divisional Court consisting of the Chief Justice of the Ontario Court who shall be president of the court and such other judges of the General Division as the Chief Justice designates from time to time.

Divisional Court

(2) Every judge of the General Division is also a judge of the Divisional Court. 1984, c. 11, s. 5, *amended.*

Jurisdiction of judges



Divisional  
Court  
jurisdiction

**18.—(1)** An appeal lies to the Divisional Court from,

(a) a final order of a judge of the General Division,

(i) for a single payment of not more than \$25,000, exclusive of costs,

(ii) for periodic payments that amount to not more than \$25,000, exclusive of costs, in the twelve months commencing on the date the first payment is due under the order,

(iii) dismissing a claim for an amount that is not more than the amount set out in subclause (i) or (ii), or

(iv) dismissing a claim for an amount that is more than the amount set out in subclause (i) or (ii) and in respect of which the judge indicates that if the claim had been allowed the amount awarded would have been not more than the amount set out in subclause (i) or (ii);

(b) an interlocutory order of a judge of the General Division, with leave as provided in the rules of court;

(c) a final order of a master. 1984, c. 11, s. 15 (1), *amended*.

Combining of  
appeals from  
General  
Division

(2) The Divisional Court has jurisdiction to hear and determine an appeal that lies to the General Division if an appeal in the same proceeding lies to and is taken to the Divisional Court.

Idem

(3) The Divisional Court may, on motion, transfer an appeal that has already been commenced in the General Division to the Divisional Court for the purpose of subsection (2). 1984, c. 11, s. 15 (2), *amended*.

Appeal from  
interlocutory  
orders

(4) No appeal lies from an interlocutory order of a judge of the General Division made on an appeal from an interlocutory order of the Provincial Division. 1984, c. 11, s. 36 (4), *amended*.

Appeals  
heard in  
regions

**19.—(1)** An appeal to the Divisional Court shall be heard in the region in which the order appealed from was made, unless the parties agree otherwise.

(2) Any other proceeding in the Divisional Court may be brought in any region. *New.* Other proceedings in any region

**20.**—(1) A proceeding in the Divisional Court shall be heard and determined by three judges sitting together. Composition of court for hearings

(2) A proceeding in the Divisional Court may be heard and determined by one judge where the proceeding, Idem

(a) is an appeal under clause 18 (1) (c);

(b) is an appeal under section 30 from a provincial judge or a deputy judge presiding over the Small Claims Court; or

(c) is in a matter that the Chief Justice of the Ontario Court or a judge designated by the Chief Justice is satisfied, from the nature of the issues involved and the necessity for expedition, can and ought to be heard and determined by one judge.

(3) A motion in the Divisional Court shall be heard and determined by one judge, unless otherwise provided by the rules of court. Idem, motions

(4) A judge assigned to hear and determine a motion may adjourn it to a panel of the Divisional Court. Idem

(5) A panel of the Divisional Court may, on motion, set aside or vary the decision of a judge who hears and determines a motion. 1984, c. 11, s. 16, *amended.* Idem

#### SMALL CLAIMS COURT

**21.**—(1) There shall be a branch of the General Division to be known as the Small Claims Court consisting of the Chief Justice of the Ontario Court who shall be president of the court and such other judges of the General Division as the Chief Justice designates from time to time. Small Claims Court

(2) Every judge of the General Division is also a judge of the Small Claims Court. *New.* Jurisdiction of judges

**22.**—(1) The Small Claims Court, Jurisdiction

(a) has jurisdiction in any action for the payment of money where the amount claimed does not exceed the prescribed amount exclusive of interest and costs; and

- (b) has jurisdiction in any action for the recovery of possession of personal property where the value of the property does not exceed the prescribed amount. 1984, c. 11, s. 78 (1), *amended*.

Transfer  
from General  
Division

(2) An action in the General Division may be transferred to the Small Claims Court by the local registrar of the General Division on requisition with the consent of all parties filed before the trial commences if,

- (a) the only claim is for the payment of money or the recovery of possession of personal property; and
- (b) the claim is within the jurisdiction of the Small Claims Court.

Idem

(3) An action transferred to the Small Claims Court shall be titled and continued as if it had been commenced in that court. 1984, c. 11, s. 84, *amended*.

Composition  
of court for  
hearings

**23.**—(1) A proceeding in the Small Claims Court shall be heard and determined by one judge of the General Division.

Provincial  
judge or  
deputy judge  
may preside

(2) A proceeding in the Small Claims Court may also be heard and determined by,

- (a) a provincial judge who was assigned to the Provincial Court (Civil Division) immediately before this section comes into force; or
- (b) a deputy judge appointed under section 31.

Where  
deputy judge  
not to  
preside

(3) A deputy judge shall not hear and determine an action,

- (a) for the payment of money in excess of the prescribed amount; or
- (b) for the recovery of possession of personal property exceeding the prescribed amount in value. *New*.

Summary  
hearings

**24.** The Small Claims Court shall hear and determine in a summary way all questions of law and fact and may make such order as is considered just and agreeable to good conscience. 1984, c. 11, s. 78 (3), *amended*.

Representation

**25.** A party may be represented in a proceeding in the Small Claims Court by counsel or an agent but the court may exclude from a hearing anyone, other than a barrister and solicitor qualified to practise in Ontario, appearing as an agent on behalf of a party if it finds that such person is not compe-



tent properly to represent the party or does not understand and comply at the hearing with the duties and responsibilities of an advocate. 1984, c. 11, s. 79, *amended*.

**26.**—(1) Subject to subsections (3) and (4), the Small Claims Court may admit as evidence at a hearing and act upon any oral testimony and any document or other thing so long as the evidence is relevant to the subject-matter of the proceeding, but the court may exclude anything unduly repetitious. Evidence

(2) Subsection (1) applies whether or not the evidence is given or proven under oath or affirmation or admissible as evidence in any other court. Idem

(3) Nothing is admissible in evidence at a hearing, Idem

(a) that would be inadmissible by reason of any privilege under the law of evidence; or

(b) that is inadmissible by any Act.

(4) Nothing in subsection (1) overrides the provisions of any Act expressly limiting the extent to or purposes for which any oral testimony, documents or things may be admitted or used in evidence in any proceeding. Conflicts

(5) A copy of a document or any other thing may be admitted as evidence at a hearing if the presiding judge is satisfied as to its authenticity. 1984, c. 11, s. 80, *amended*. Copies

**27.** The Small Claims Court may order the times and the proportions in which money payable under an order of the court shall be paid. 1984, c. 11, s. 81, *amended*. Instalment orders

**28.** An award of costs in the Small Claims Court, other than disbursements, shall not exceed 15 per cent of the amount claimed or the value of the property sought to be recovered unless the court considers it necessary in the interests of justice to penalize a party, counsel or agent for unreasonable behaviour in the proceeding. *New*. Limit on costs

**29.** Orders of the Small Claims Court shall be directed to a bailiff appointed under subsection 32 (1) for enforcement, unless otherwise provided by the rules of court. 1984, c. 11, s. 82, *amended*. Enforcement of orders

**30.** An appeal lies to the Divisional Court from a final order of the Small Claims Court in an action, Appeals



- (a) for the payment of money in excess of \$500, excluding costs; or
- (b) for the recovery of possession of personal property exceeding \$500 in value. 1984, c. 11, s. 83, *amended*.

Deputy  
judges

**31.**—(1) A regional senior judge of the General Division may, with the approval of the Attorney General, appoint a barrister and solicitor to act as a deputy judge of the Small Claims Court for a term of three years.

Idem

(2) A regional senior judge of the General Division may renew the appointment of a deputy judge for one or more three-year terms.

Idem

(3) The appointment of a person who was a deputy judge immediately before this section comes into force is deemed to be renewed under subsection (2) on the day this section comes into force. *New*.

Clerk and  
bailiff of  
Small Claims  
Court

**32.**—(1) There shall be a clerk and one or more bailiffs for each division of the Small Claims Court who shall be appointed by the Lieutenant Governor in Council.

Idem

(2) With the approval of the Deputy Attorney General or the person designated by the Deputy Attorney General, every clerk and bailiff of the Small Claims Court in a division that is not designated under clause 52 (1) (g) may appoint in writing a deputy who may exercise and perform all the powers and duties of the clerk or bailiff.

Referee

(3) The Lieutenant Governor in Council may appoint a referee for a division of the Small Claims Court. 1984, c. 11, s. 86 (4, 5), *amended*.

#### PROVINCIAL DIVISION

Provincial  
Division

**33.** The Provincial Court (Criminal Division), the Provincial Court (Family Division) and the Provincial Offences Court are amalgamated and continued as a court of record named the Ontario Court (Provincial Division). *New*.

Composition  
of Provincial  
Division

**34.** The Provincial Division shall consist of,

- (a) the Chief Judge of the Provincial Division appointed under subsection 41 (3), who shall be president of the Provincial Division;

(b) a regional senior judge of the Provincial Division appointed under subsection 41 (4) for each region; and

(c) such provincial judges as are appointed under subsection 41 (1). *New.*

**35.—**(1) The Chief Judge of the Provincial Division shall direct and supervise the sittings of the Provincial Division and the assignment of its judicial duties. 1984, c. 11, s. 63 (5), *amended.*

Powers and duties of Chief Judge of Provincial Division

(2) A regional senior judge of the Provincial Division shall, subject to the authority of the Chief Judge of the Provincial Division, exercise the powers and perform the duties of the Chief Judge of the Provincial Division in his or her region.

Regional senior judges, Provincial Division

(3) A regional senior judge of the Provincial Division may delegate to a judge of the Provincial Division in his or her region the authority to exercise specified functions. *New.*

Delegation

(4) If the Chief Judge of the Provincial Division is absent from Ontario or is for any reason unable to act, his or her powers and duties shall be exercised and performed by a regional senior judge of the Provincial Division designated by the Chief Judge of the Provincial Division. 1984, c. 11, s. 63 (7), *amended.*

Absence of Chief Judge of Provincial Division

(5) The powers and duties of a regional senior judge of the Provincial Division who is absent from Ontario or is for any reason unable to act shall be exercised and performed by a judge of the Provincial Division designated by the Chief Judge of the Provincial Division.

Absence of regional senior judge of Provincial Division

(6) The Chief Judge of the Provincial Division may hold meetings with the regional senior judges of the Provincial Division in order to consider any matters concerning sittings of the Provincial Division and the assignment of its judicial duties. *New.*

Meetings with regional senior judges

**36.—**(1) The Chief Judge of the Ontario Court (Provincial Division) shall assign every provincial judge to a region and may re-assign a judge from one region to another.

Judges assigned to regions

(2) Subsection (1) does not prevent the temporary assignment of a provincial judge to a location anywhere in Ontario. *New.*

Idem

**37.—**(1) A provincial judge has the power and authority of two or more justices of the peace when sitting in the

Criminal jurisdiction

Provincial Division and shall exercise the powers and perform the duties that any Act of the Parliament of Canada confers on a provincial court judge when sitting in the Provincial Division. 1984, c. 11, s. 67 (1), *amended*.

Provincial  
offences and  
family  
jurisdiction  
R.S.O. 1980,  
c. 400

1986, c. 4

R.S.O. 1980,  
c. 68

1984, c. 55

Youth court  
jurisdiction

R.S.C. 1985,  
c. Y-1

(2) The Provincial Division shall perform any function assigned to it by or under the *Provincial Offences Act*, the *Family Law Act*, 1986, the *Children's Law Reform Act*, the *Child and Family Services Act*, 1984 or any other Act. 1984, c. 11, s. 69, s. 75 (1) (a), (k), *amended*.

(3) The Provincial Division is a youth court for the purposes of the *Young Offenders Act* (Canada). 1984, c. 11, s. 67 (2), s. 75 (1) (b), *amended*.

Judge to  
preside

**38.**—(1) A proceeding in the Provincial Division shall be heard and determined by one judge of the Provincial Division. 1984, c. 11, s. 66 (2), s. 74 (2), *amended*.

Justice of the  
peace may  
preside  
R.S.O. 1980,  
c. 400

(2) A justice of the peace may preside over the Provincial Division in a proceeding under the *Provincial Offences Act*. 1984, c. 11, s. 68 (2), *amended*.

Appeals

**39.**—(1) If no provision is made concerning an appeal from an order of the Provincial Division, an appeal lies to the General Division.

Exception  
R.S.C. 1985,  
c. C-46

(2) Subsection (1) does not apply to a proceeding under the *Criminal Code* (Canada) or the *Provincial Offences Act*. 1987, c. 1, s. 6, *amended*.

Penalty for  
disturbance  
outside  
courtroom

**40.** Any person who knowingly disturbs or interferes with a proceeding in the Provincial Division without reasonable justification while outside the courtroom is guilty of an offence and on conviction is liable to a fine of not more than \$1,000 or to imprisonment for a term of not more than thirty days, or to both. 1984, c. 11, s. 72, *amended*.

#### PROVINCIAL JUDGES

Appointment  
of provincial  
judges

**41.**—(1) The Lieutenant Governor in Council, on the recommendation of the Attorney General, may appoint such provincial judges as are considered necessary.

Qualifications

(2) No person shall be appointed as a provincial judge unless he or she has been a member of the bar of one of the provinces of Canada for at least ten years. 1984, c. 11, s. 52.



(3) The Lieutenant Governor in Council may appoint a provincial judge as Chief Judge of the Provincial Division. 1984, c. 11, s. 63 (1), *amended*. Chief Judge

(4) The Lieutenant Governor in Council may appoint a provincial judge to be the regional senior judge of the Provincial Division for each region. Regional senior judges

(5) The Chief Judge of the Provincial Division and the regional senior judges of the Provincial Division shall hold office for five years. Term of office

(6) If a successor is not appointed within five years, the Chief Judge or a regional senior judge shall continue in office until the successor is appointed, but in no case shall the Chief Judge or regional senior judge hold office for more than seven years. Idem

(7) A Chief Judge or a regional senior judge whose term of office expires under subsection (5) or (6) shall continue to hold the office of provincial judge and is entitled to an annual salary equal to the greater of, Former Chief Judge, etc.

(a) the current annual salary of a provincial judge; or

(b) the annual salary he or she received immediately before ceasing to be Chief Judge or regional senior judge.

(8) A Chief Judge or regional senior judge whose term of office expires under subsection (5) or (6) shall not be reappointed to the same position. *New.* Chief Judge, etc., not to be reappointed

**42.—**(1) A provincial judge shall devote his or her whole time to the performance of his or her duties as a judge, except as authorized by the Lieutenant Governor in Council. Other employment

(2) Despite subsection (1), a provincial judge who, before the 1st day of January, 1985, had the consent of the Attorney General to act as an arbitrator or conciliator may continue to so act. 1984, c. 11, s. 53, *amended*. Idem

**43.—**(1) Every provincial judge shall retire upon attaining the age of sixty-five years. Retirement

(2) Despite subsection (1), a provincial judge appointed as a full-time magistrate, judge of a juvenile and family court or master before the 2nd day of December, 1968 shall retire upon attaining the age of seventy years. Idem



Continuation  
of judges in  
office

(3) A judge who has attained the age of sixty-five years may, subject to the annual approval of the Chief Judge of the Provincial Division, continue in office as a full-time or part-time judge until he or she attains the age of seventy years.

Idem

(4) A judge who has attained the age of seventy years may, subject to the annual approval of the Judicial Council, continue in office as a full-time or part-time judge until he or she has attained the age of seventy-five years.

Continuation  
of regional  
senior judge  
in office

(5) Subject to subsections 41 (5) and (6), a regional senior judge of the Provincial Division who is in office upon attaining the age of sixty-five years may, subject to the annual approval of the Chief Judge of the Provincial Division, continue in that office until he or she has attained the age of seventy years.

Idem

(6) Subject to subsections 41 (5) and (6), a regional senior judge of the Provincial Division who is in office upon attaining the age of seventy years may, subject to the annual approval of the Judicial Council, continue in that office until he or she has attained the age of seventy-five years.

Continuation  
of  
Co-ordinator  
in office  
1989, c. 46

(7) Subject to subsections 13 (2) and (3) of the *Justices of the Peace Act, 1989*, if the Co-ordinator of Justices of the Peace is in office upon attaining the age of sixty-five years, he or she may, subject to the annual approval of the Chief Judge of the Provincial Division, continue in that office until he or she has attained the age of seventy years.

Idem

(8) Subject to subsections 13 (2) and (3) of the *Justices of the Peace Act, 1989*, if the Co-ordinator of Justices of the Peace is in office upon attaining the age of seventy years, he or she may, subject to the annual approval of the Judicial Council, continue in that office until he or she has attained the age of seventy-five years. *New.*

Continuation  
in office of  
Chief Judge  
of Provincial  
Division

(9) Subject to subsections 41 (5) and (6), if the Chief Judge of the Provincial Division is in office upon attaining the age for retirement under subsection (1) or (2), he or she may, subject to the annual approval of the Judicial Council, continue in that office until he or she has attained the age of seventy-five years. 1984, c. 11, s. 54, *amended.*

Resignation  
of judge

**44.**—(1) A provincial judge may at any time resign from his or her office by delivering a signed letter of resignation to the Attorney General.

Resignation  
as Chief  
Judge, etc.

(2) A Chief Judge or a regional senior judge may, before the expiry of his or her term of office under subsection 41 (5)

or (6), elect to hold the office of a provincial judge only, by delivering a signed letter to that effect to the Attorney General.

(3) The Co-ordinator of Justices of the Peace may, before the expiry of his or her term of office under subsection 13 (2) or (3) of the *Justices of the Peace Act, 1989*, elect to hold the office of a provincial judge only, by delivering a signed letter to that effect to the Attorney General. *New.*

Resignation  
of  
Co-ordinator  
1989, c. 46

(4) A resignation or election under this section takes effect on the day the letter is delivered to the Attorney General or, if the letter specifies a later day, on that day. 1984, c. 11, s. 55, s. 65, *amended.*

Effective  
date

**45.**—(1) A provincial judge may be removed from office before attaining retirement age only if,

Removal for  
cause

(a) a complaint regarding the judge has been made to the Judicial Council; and

(b) the removal is recommended by an inquiry held under section 49 on the ground that the judge has become incapacitated or disabled from the due execution of his or her office by reason of,

(i) infirmity,

(ii) conduct that is incompatible with the execution of his or her office, or

(iii) having failed to perform the duties of his or her office.

(2) An order removing a provincial judge from office under this section may be made by the Lieutenant Governor on the address of the Legislative Assembly. 1984, c. 11, s. 56, *amended.*

Order for  
removal

**46.**—(1) The Judicial Council for Provincial Judges is continued as the Ontario Judicial Council and shall be composed of,

Judicial  
Council

(a) the Chief Justice of Ontario, who shall preside over the Ontario Judicial Council;

(b) the Associate Chief Justice of Ontario;

(c) the Chief Justice of the Ontario Court;

- (d) the Chief Judge of the Ontario Court (Provincial Division);
- (e) the Treasurer of The Law Society of Upper Canada; and
- (f) not more than two other persons appointed by the Lieutenant Governor in Council.

**Quorum**

(2) A majority of members of the Judicial Council constitutes a quorum and is sufficient for the exercise of all the jurisdiction and powers of the Judicial Council.

**Staff**

R.S.O. 1980,  
c. 418

(3) Such officers and employees of the Judicial Council as are considered necessary may be appointed under the *Public Service Act*.

**Expert assistance**

(4) The Judicial Council may engage persons, including counsel, to assist it in its investigations. 1984, c. 11, s. 57, *amended*.

**Transition**

(5) An investigation commenced by the Judicial Council before this section comes into force shall be continued by the Judicial Council as it was constituted before this section comes into force. *New*.

**Functions**

**47.**—(1) The functions of the Judicial Council are,

- (a) to consider all proposed appointments of provincial judges and make a report on them to the Attorney General;
- (b) to receive and investigate complaints against provincial judges.

**Liability for damages**

(2) No action or other proceeding for damages shall be instituted against the Judicial Council or any member or officer of it or any person acting under its authority for any act done in good faith in the execution or intended execution of its or his or her duty. 1984, c. 11, s. 58.

**Investigation of complaints**

**48.**—(1) Where the Judicial Council receives a complaint against a provincial judge, it shall take such action to investigate the complaint as it considers advisable.

**Referral to Chief Judge**

(2) The Judicial Council may transmit those complaints it considers appropriate,

- (a) concerning provincial judges to the Chief Judge of the Provincial Division; and



(b) concerning masters to the Chief Justice of the Ontario Court.

(3) The proceedings of the Judicial Council shall not be public, but it may inform the Attorney General respecting matters that it has investigated and the Attorney General may make public the fact that an investigation has been undertaken.

Proceedings  
not public

(4) The Judicial Council may order that information or documents relating to its proceedings not be published or disclosed except as required by law.

Prohibiting  
publication

(5) The Judicial Council has all the powers of a commission under Part II of the *Public Inquiries Act*, which Part applies to the investigation as if it were an inquiry under that Act.

Powers  
R.S.O. 1980,  
c. 411

(6) When the Judicial Council has dealt with a complaint regarding a provincial judge, it shall inform the following persons of its disposition of the complaint:

Notice of  
disposition

1. The person who made the complaint.

2. If the complaint was brought to the attention of the judge, the judge.

(7) The Judicial Council may report its opinion regarding the complaint to the Attorney General and may recommend,

Report and  
recommen-  
dations

(a) that an inquiry be held under section 49;

(b) that the judge be compensated for all or part of the costs incurred by the judge relating to the investigation.

(8) A copy of a report made under subsection (7) shall be given to the judge.

Copy to  
judge

(9) The Judicial Council shall not make a report under subsection (7) unless the judge was notified of the investigation and given an opportunity to be heard and to produce evidence on his or her behalf.

Right to be  
heard

(10) When the Judicial Council makes a report to the Attorney General under subsection (7), the Attorney General may make all or part of the report public, if he or she is of the opinion that it is in the public interest to do so. 1984, c. 11, s. 59, *amended*.

Publication  
of report



## Inquiry

**49.**—(1) The Lieutenant Governor in Council may appoint a judge of the General Division to inquire into the question whether a provincial judge should be removed from office.

## Powers

R.S.O. 1980,  
c. 411

(2) The *Public Inquiries Act* applies to an inquiry under subsection (1).

## Report

(3) The report of the inquiry may recommend,

- (a) that the judge be removed from office;
- (b) that the judge be compensated for all or part of the costs incurred by the judge relating to the inquiry.

Tabling of  
report

(4) The report of the inquiry shall be laid before the Legislative Assembly if it is in session or, if not, within fifteen days after the commencement of the next session. 1984, c. 11, s. 60, *amended*.

Provincial  
Judges  
Remuneration  
Commission

**50.**—(1) The committee known as the Ontario Provincial Courts Committee is continued as the Provincial Judges Remuneration Commission.

Composition  
of  
Commission

(2) The Commission shall be composed of the following three members:

1. One appointed jointly by the associations representing provincial judges.
2. One appointed by the Lieutenant Governor in Council.
3. One, who shall head the Commission, appointed jointly by the bodies referred to in paragraphs 1 and 2.

## Function

(3) The function of the Provincial Judges Remuneration Commission is to inquire into and make recommendations to the Lieutenant Governor in Council respecting any matter relating to the remuneration, allowances and benefits of provincial judges, including the matters referred to in clauses 52 (1) (b) and (c).

Annual  
report

(4) The Commission shall make an annual report of its activities to the Lieutenant Governor in Council.

Tabling of  
recommen-  
dations

(5) Recommendations of the Commission and its annual report shall be laid before the Legislative Assembly if it is in

session or, if not, within fifteen days of the commencement of the next session. 1984, c. 11, s. 88, *amended*.

## MISCELLANEOUS

**51.**—(1) The judges of the Ontario Court of Justice shall meet at least once in each year, on a day fixed by the Chief Justice of the Ontario Court, in order to consider this Act, the rules of court and the administration of justice generally. Meeting of judges

(2) The judges shall report their recommendations to the Attorney General. 1984, c. 11, s. 10, *amended*. Idem

(3) The judges of the Ontario Court of Justice in each region shall meet at least once in each year, on a day fixed by the regional senior judge of the General Division, in order to consider this Act, the rules of court and the administration of justice in the region generally. Regional meeting of judges

(4) The judges shall report their recommendations to the Attorney General. *New*. Idem

**52.**—(1) The Lieutenant Governor in Council may make regulations, Regulations

(a) fixing the number of judges of the General Division who are in addition to the Chief Justice, the regional senior judges and the Senior Judge for the Unified Family Court;

(b) fixing the remuneration of provincial judges and masters;

(c) providing for the benefits to which provincial judges and masters are entitled, including,

(i) leave of absence and vacations,

(ii) sick leave credits and payments in respect of those credits,

(iii) pension benefits for provincial judges, masters and their surviving spouses and children;

(d) prescribing territorial divisions for the Small Claims Court;

(e) prescribing the maximum amount of a claim in the Small Claims Court for the purposes of subsection 22 (1);

R.S.O. 1980,  
c. 418

- (f) prescribing the maximum amount of a claim over which a deputy judge may preside for the purposes of subsection 23 (3);
- (g) providing for the retention of fees by clerks, bailiffs and referees of the Small Claims Court who are not civil servants under the *Public Service Act* and designating divisions where clerks, bailiffs and referees of the Small Claims Court may be appointed to a position as a civil servant under that Act;
- (h) prescribing the duties of clerks, bailiffs and referees of the Small Claims Court;
- (i) prescribing for each region the minimum number of judges of the General Division and of the Provincial Division who are to be assigned to that region. 1984, c. 11, s. 4 (2), s. 20 (4), s. 87 (1), *amended*.

Idem

(2) A reduction in the number of judges of the General Division under clause (1) (a) does not affect appointments existing at the time of the reduction. 1984, c. 11, s. 4 (2), *amended*.

Contributions

(3) Regulations made under clause (1) (c) may require judges and masters to contribute from their salaries part of the costs of benefits and may fix the amount of the contributions.

Application  
of  
R.S.O. 1980,  
c. 419

(4) A regulation made under clause (1) (c) may modify or exclude the application of the *Public Service Superannuation Act*.

Application  
of regulations

(5) A regulation made under subsection (1) may be general or particular in its application. 1984, c. 11, s. 20 (5-7), s. 87 (2-4), *amended*.

### PART III

#### UNIFIED FAMILY COURT

Unified  
Family Court

**53.** The Unified Family Court is continued as a superior court of record in and for The Regional Municipality of Hamilton-Wentworth. 1984, c. 11, s. 38, *amended*.

Composition  
of court

**54.—**(1) The Unified Family Court shall be presided over by,

(a) a judge of the Ontario Court (General Division) appointed as senior judge for the Unified Family Court; or

(b) a judge of the Ontario Court (General Division),

who is authorized under subsection (3) to exercise the jurisdiction of a judge of the Ontario Court (Provincial Division).

(2) The senior judge for the Unified Family Court shall supervise and direct the sittings and the assignment of the judicial duties of the Unified Family Court.

Duties of  
senior judge

(3) The Lieutenant Governor in Council may authorize a judge of the General Division to exercise the jurisdiction of a judge of the Provincial Division.

Authority for  
Provincial  
Division  
matters

(4) A judge who may preside over the Unified Family Court shall exercise his or her jurisdiction as a judge of the General Division or a judge of the Provincial Division in the matters in which the General Division or the Provincial Division or a judge of one of them has jurisdiction under the statutory provisions set out in the Schedule to this Part. 1984, c. 11, s. 39; 1987, c. 1, s. 1, *amended*.

Exercise of  
existing  
jurisdiction

**55.**—(1) Proceedings taken in a court in The Regional Municipality of Hamilton-Wentworth under the statutory provisions set out in the Schedule to this Part, other than by way of appeal, shall be commenced and titled in the Unified Family Court and the jurisdiction of the court shall be exercised in the Unified Family Court.

Proceedings  
in Unified  
Family Court

(2) A motion for interim relief under the *Divorce Act*, 1985 (Canada), the *Family Law Act*, 1986 or the *Children's Law Reform Act* in a proceeding in the General Division shall be heard in the Unified Family Court if it is required or permitted to be heard in The Regional Municipality of Hamilton-Wentworth by the rules of court or an order of the court. 1984, c. 11, s. 40 (1, 2) *amended*.

Idem  
S.C. 1986,  
c. 4  
1986, c. 4  
R.S.O. 1980,  
c. 68

(3) All proceedings commenced in or transferred to the Unified Family Court shall be heard and determined without a jury. 1984, c. 11, s. 40 (4), *amended*.

No jury

**56.** Where a proceeding is commenced in the Unified Family Court in a matter over which jurisdiction may be exercised in the Unified Family Court and is combined with a related matter in the jurisdiction of the judge but respecting which jurisdiction may not be exercised in the Unified Family

Other  
jurisdiction



Court, the court may, with leave of the judge, hear and determine the combined matters. 1984, c. 11, s. 41, *amended*.

Orders of  
predecessor  
court

**57.**—(1) The Unified Family Court may hear and determine an application under an Act to discharge, vary or suspend an order made by the Provincial Court (Family Division) of the Judicial District of Hamilton-Wentworth.

Enforcement

(2) The Unified Family Court may enforce orders made by the Provincial Court (Family Division) of the Judicial District of Hamilton-Wentworth. 1984, c. 11, s. 42, *amended*.

Place where  
proceedings  
commenced

**58.**—(1) Subject to subsection (2), proceedings referred to in subsection 55 (1) may be commenced in the Unified Family Court where the applicant or the respondent resides in The Regional Municipality of Hamilton-Wentworth. 1984, c. 11, s. 44 (1), *amended*.

Idem,  
custody or  
access  
R.S.O. 1980,  
c. 68

(2) An application under Part III of the *Children's Law Reform Act* in respect of a child who ordinarily resides in The Regional Municipality of Hamilton-Wentworth may be commenced in the Unified Family Court. 1984, c. 11, s. 44 (2), *amended*.

Transfer to  
other court

(3) A judge who may preside over the Unified Family Court may, on motion, order that a proceeding commenced in the Unified Family Court be transferred to the appropriate court in a place where there is no Unified Family Court if, in the opinion of the judge, there is a preponderance of convenience for the matter to be dealt with by that court. 1984, c. 11, s. 44 (3).

Transfer  
from other  
court

(4) A judge of a court having jurisdiction in a proceeding under a statutory provision set out in the Schedule to this Part in an area other than The Regional Municipality of Hamilton-Wentworth may, on motion, order that the proceeding be transferred to the Unified Family Court if, in the opinion of the judge, there is a preponderance of convenience for the matter to be dealt with by that court. 1984, c. 11, s. 44 (4), *amended*.

Directions

(5) A judge making an order under subsection (3) or (4) may give such directions for the transfer as are considered just. 1984, c. 11, s. 44 (5).

Status of  
orders

**59.** An order of a judge presiding over the Unified Family Court made in the exercise of his or her jurisdiction as a judge of the Ontario Court (General Division) is an order of the General Division for all purposes. 1984, c. 11, s. 45, *amended*.

**60.**—(1) Subject to subsections (2) and (3), a provision for an appeal from an order made under the statutory provisions set out in the Schedule to this Part applies to an order when made in the exercise of the jurisdiction by a judge presiding over the Unified Family Court. Appeals

(2) Where an order made by the Unified Family Court under a statutory provision set out in the Schedule to this Part is within the jurisdiction of the Ontario Court (General Division) outside The Regional Municipality of Hamilton-Wentworth, the order shall, for the purposes of an appeal, be deemed to have been made by a judge of the General Division. 1984, c. 11, s. 46 (1, 2), *amended*. Idem

(3) A provision for an appeal to the Ontario Court (General Division) or a judge of it from an order made by the Unified Family Court under the statutory provisions set out in the Schedule to this Part shall be deemed to provide for an appeal to the Divisional Court. *New*. Idem

(4) Where no provision is made for an appeal from an order of a judge presiding over the Unified Family Court, an appeal lies, Idem

(a) to the Court of Appeal from a final order, except an order referred to in clause (b);

(b) to the Divisional Court from a final order,

(i) for a single payment of not more than \$25,000, exclusive of costs,

(ii) for periodic payments that amount to not more than \$25,000, exclusive of costs, in the twelve months commencing on the date the first payment is due under the order,

(iii) dismissing a claim for an amount that is not more than the amount set out in subclause (i) or (ii), or

(iv) dismissing a claim for an amount that is more than the amount set out in subclause (i) or (ii) and in respect of which the judge indicates that if the claim had been allowed the amount awarded would have been not more than the amount set out in subclause (i) or (ii); or

- (c) to the Divisional Court from an interlocutory order, with leave as provided in the rules of court. 1984, c. 11, s. 46 (4), *amended*.

Criminal  
jurisdiction

**61.**—(1) A judge presiding over the Unified Family Court has all the powers of a judge sitting in the Ontario Court (Provincial Division) for the purposes of proceedings under the *Criminal Code* (Canada).

R.S.C. 1985,  
c. C-46

Idem

(2) The Unified Family Court shall be deemed to be and shall sit as the Provincial Division,

R.S.O. 1980,  
c. 400

- (a) for the purpose of dealing with young persons as defined in the *Provincial Offences Act*; and

1986, c. 4  
R.S.O. 1980,  
cc. 68, 293  
1984, c. 55

- (b) for the purpose of prosecutions under the *Family Law Act, 1986*, the *Children's Law Reform Act*, the *Minors' Protection Act* and Part III (Child Protection) and Part VII (Adoption) of the *Child and Family Services Act, 1984*.

Idem

R.S.C. 1985,  
c. Y-1

(3) The Unified Family Court is a youth court for the purpose of the *Young Offenders Act* (Canada). 1984, c. 11, s. 47, *amended*.

Conciliation  
service

**62.** A conciliation service may be established, maintained and operated as part of the Unified Family Court. 1984, c. 11, s. 49.

Rules

**63.**—(1) The Lieutenant Governor in Council may make rules for the Unified Family Court in relation to the practice and procedure of the court and may make rules for the court, even though they alter or conform to the substantive law, in relation to,

- (a) conduct of proceedings in the court;
- (b) joinder of claims and parties, and representation of parties;
- (c) commencement of proceedings and service of process in or outside Ontario;
- (d) discovery and other forms of disclosure before hearing, including their scope and their admissibility and use in a proceeding;
- (e) examination of witnesses in or out of court;
- (f) duties of clerks and other officers;

- (g) references of proceedings or issues in a proceeding and the powers of a person conducting a reference;
- (h) costs of proceedings;
- (i) enforcement of orders and process;
- (j) payment into and out of court;
- (k) any matter that is referred to in an Act as provided for by rules of court.

(2) Nothing in subsection (1) authorizes the making of rules that conflict with an Act, but rules may be made under subsection (1) supplementing the provisions of an Act in respect of practice and procedure. Idem

(3) The rules of court made under Part IV do not apply to proceedings in the Unified Family Court. 1984, c. 11, s. 51, *amended*. Idem

## SCHEDULE

Jurisdiction under the following statutory provisions:

Statutes	Provisions
1. Annulment of Marriages Act (Ontario) (Canada)	All
2. Change of Name Act, 1986	All
3. Child and Family Services Act, 1984	Parts III, VI and VII
4. Children's Law Reform Act	All, except sections 60 and 61
5. Divorce Act, 1985 (Canada)	All
6. Education Act	Sections 29 and 30
7. Family Law Act, 1986	All, except Part V
8. Marriage Act	Sections 6 and 9
9. Minors' Protection Act	Section 2
10. Reciprocal Enforcement of Maintenance Orders Act, 1982	All
11. Support and Custody Orders Enforcement Act, 1985	All
12. Young Offenders Act (Canada)	All



## PART IV

## RULES OF COURT

Civil Rules  
Committee

**64.**—(1) The Civil Rules Committee is established and shall be composed of,

- (a) the Chief Justice of Ontario, the Associate Chief Justice of Ontario, the Chief Justice of the Ontario Court and the Chief Judge of the Ontario Court (Provincial Division);
- (b) one judge of the Court of Appeal, who shall be appointed by the Chief Justice of Ontario;
- (c) nine judges of the Ontario Court (General Division), who shall be appointed by the Chief Justice of the Ontario Court;
- (d) the Attorney General or a person designated by the Attorney General;
- (e) one law officer of the Crown, who shall be appointed by the Attorney General;
- (f) two persons employed in the administration of the courts, who shall be appointed by the Attorney General;
- (g) four barristers and solicitors, who shall be appointed by the Benchers of The Law Society of Upper Canada in convocation;
- (h) one barrister and solicitor, who shall be appointed by the Chief Justice of Ontario; and
- (i) four barristers and solicitors, who shall be appointed by the Chief Justice of the Ontario Court.

Idem

(2) The Chief Justice of Ontario shall preside over the Civil Rules Committee but, if the Chief Justice of Ontario is absent or so requests, another member designated by the Chief Justice of Ontario shall preside.

Tenure of  
office

(3) Each of the members of the Civil Rules Committee appointed under clauses (1) (b), (c), (e), (f), (g), (h) and (i) shall hold office for a period of three years and is eligible for reappointment.

(4) Where a vacancy occurs among the members appointed under clause (1) (b), (c), (e), (f), (g), (h) or (i), a new member similarly qualified may be appointed for the remainder of the unexpired term. Vacancies

(5) A majority of the members of the Civil Rules Committee constitutes a quorum. 1984, c. 11, s. 89, *amended*. Quorum

**65.**—(1) Subject to the approval of the Lieutenant Governor in Council, the Civil Rules Committee may make rules for the Court of Appeal and the Ontario Court (General Division) in relation to the practice and procedure of those courts in all civil proceedings, including family law proceedings. Civil Rules

(2) The Civil Rules Committee may make rules for the courts described in subsection (1), even though they alter or conform to the substantive law, in relation to, Idem

- (a) conduct of proceedings in the courts;
- (b) joinder of claims and parties, settlement of claims by or against persons under disability, whether or not a proceeding has been commenced in respect of the claim, the binding effect of orders and representation of parties;
- (c) commencement of proceedings, representation of parties by solicitors and service of process in or outside Ontario;
- (d) disposition of proceedings without a hearing and its effect and authorizing the Court of Appeal to determine in the first instance a special case arising in a proceeding commenced in the Ontario Court (General Division);
- (e) pleadings;
- (f) discovery and other forms of disclosure before hearing, including their scope and the admissibility and use of that discovery and disclosure in a proceeding;
- (g) examination of witnesses in or out of court;
- (h) jurisdiction of masters, including the conferral on masters of any jurisdiction of the Ontario Court (General Division), including jurisdiction under an Act, but not including the trial of actions or jurisdiction conferred by an Act on a judge;

- (i) jurisdiction and duties of officers;
- (j) motions and applications, including the hearing of motions in the absence of the public and prohibiting a party from making motions without leave;
- (k) preservation of rights of parties pending the outcome of litigation, including sale, recovery of possession or preservation of property;
- (l) interpleader;
- (m) preparation for trial and offers to settle and their legal consequences;
- (n) the mode and conduct of trials;
- (o) the appointment by the court of independent experts, their remuneration and the admissibility and use of their reports;
- (p) the discount rate to be used in determining the amount of an award in respect of future pecuniary damages;
- (q) references of proceedings or issues in a proceeding and the powers of a person conducting a reference;
- (r) costs of proceedings, including security for costs and a solicitor's liability for or disentitlement to costs;
- (s) enforcement of orders and process or obligations under the rules;
- (t) the time for and procedure on appeals and stays pending appeal;
- (u) payment into and out of court;
- (v) any matter that is referred to in an Act as provided for by rules of court.

Idem

(3) Nothing in subsection (1) or (2) authorizes the making of rules that conflict with an Act, but rules may be made under subsections (1) and (2) supplementing the provisions of an Act in respect of practice and procedure. 1984, c. 11, s. 90, *amended*.

Family Rules  
Committee

**66.**—(1) The Family Rules Committee is established and shall be composed of,

- (a) the Chief Justice of Ontario, the Associate Chief Justice of Ontario, the Chief Justice of the Ontario Court and the Chief Judge of the Ontario Court (Provincial Division);
- (b) the senior judge for the Unified Family Court;
- (c) one judge of the Court of Appeal, who shall be appointed by the Chief Justice of Ontario;
- (d) three judges of the Ontario Court (General Division), who shall be appointed by the Chief Justice of the Ontario Court;
- (e) four judges of the Ontario Court (Provincial Division), who shall be appointed by the Chief Judge of the Ontario Court (Provincial Division);
- (f) the Attorney General or a person designated by the Attorney General;
- (g) one law officer of the Crown, who shall be appointed by the Attorney General;
- (h) two persons employed in the administration of the courts, who shall be appointed by the Attorney General;
- (i) four barristers and solicitors, who shall be appointed by the Benchers of The Law Society of Upper Canada in convocation;
- (j) two barristers and solicitors, who shall be appointed by the Chief Justice of the Ontario Court; and
- (k) two barristers and solicitors, who shall be appointed by the Chief Judge of the Ontario Court (Provincial Division).

(2) The Chief Justice of Ontario shall preside over the Family Rules Committee but, if the Chief Justice of Ontario is absent or so requests, another member designated by the Chief Justice shall preside. Idem

(3) Each of the members of the Family Rules Committee appointed under clauses (1) (c), (d), (e), (g), (h), (i), (j) and (k) shall hold office for a period of three years and is eligible for reappointment. Tenure of office



## Vacancies

(4) Where a vacancy occurs among the members appointed under clause (1) (c), (d), (e), (g), (h), (i), (j) or (k), a new member similarly qualified may be appointed for the remainder of the unexpired term.

## Quorum

(5) A majority of the members of the Family Rules Committee constitutes a quorum. *New.*

## Family Rules

**67.**—(1) Subject to the approval of the Lieutenant Governor in Council, the Family Rules Committee may make rules for the Court of Appeal, the Ontario Court (General Division) and the Ontario Court (Provincial Division) in relation to the practice and procedure of those courts in proceedings under statutory provisions set out in the Schedule to Part III (Unified Family Court), except proceedings under the *Young Offenders Act* (Canada).

R.S.C. 1985,  
c. Y-1

## Idem

(2) Subsections 65 (2) and (3) apply with necessary modifications to the Family Rules Committee making rules for the courts described in subsection (1).

May modify  
civil rules

(3) The rules made by the Family Rules Committee may adopt, modify or exclude the rules made by the Civil Rules Committee.

Rules for  
*Young  
Offenders Act*

(4) Subject to the approval of the Lieutenant Governor in Council, the Family Rules Committee may prepare rules for the purpose of section 68 of the *Young Offenders Act* (Canada) for consideration by the Ontario Court (Provincial Division). *New.*

Criminal  
Rules  
Committee

**68.**—(1) The Criminal Rules Committee is established and shall be composed of,

- (a) the Chief Justice of Ontario, the Associate Chief Justice of Ontario, the Chief Justice of the Ontario Court and the Chief Judge of the Ontario Court (Provincial Division);
- (b) one judge of the Court of Appeal, who shall be appointed by the Chief Justice of Ontario;
- (c) three judges of the Ontario Court (General Division), who shall be appointed by the Chief Justice of the Ontario Court;
- (d) four judges of the Ontario Court (Provincial Division), who shall be appointed by the Chief Judge of the Ontario Court (Provincial Division);

- (e) the Co-ordinator of Justices of the Peace;
- (f) the Attorney General or a person designated by the Attorney General;
- (g) one law officer of the Crown, who shall be appointed by the Attorney General;
- (h) three Crown attorneys, deputy Crown attorneys or assistant Crown attorneys, who shall be appointed by the Attorney General;
- (i) two persons employed in the administration of the courts, who shall be appointed by the Attorney General;
- (j) two barristers and solicitors, who shall be appointed by the Benchers of The Law Society of Upper Canada in convocation;
- (k) one barrister and solicitor, who shall be appointed by the Chief Justice of Ontario;
- (l) one barrister and solicitor, who shall be appointed by the Chief Justice of the Ontario Court; and
- (m) one barrister and solicitor, who shall be appointed by the Chief Judge of the Ontario Court (Provincial Division).

(2) The Chief Justice of Ontario shall preside over the Criminal Rules Committee but, if the Chief Justice of Ontario is absent or so requests, another member designated by the Chief Justice of Ontario shall preside. Idem

(3) Each of the members of the Criminal Rules Committee appointed under clauses (1) (b), (c), (d), (e), (g), (h), (i), (j), (k), (l) and (m) shall hold office for a period of three years and is eligible for reappointment. Tenure of office

(4) Where a vacancy occurs among the members appointed under clause (1) (b), (c), (d), (e), (g), (h), (i), (j), (k), (l) or (m), a new member similarly qualified may be appointed for the remainder of the unexpired term. Vacancies

(5) A majority of the members of the Criminal Rules Committee constitutes a quorum. *New.* Quorum

**69.**—(1) Subject to the approval of the Lieutenant Governor in Council, the Criminal Rules Committee may prepare Criminal Rules

R.S.C. 1985,  
c. C-46

rules for the purposes of section 482 of the *Criminal Code* (Canada) for consideration by the Court of Appeal, the Ontario Court (General Division) and the Ontario Court (Provincial Division).

Provincial  
offences rules

(2) Subject to the approval of the Lieutenant Governor in Council, the Criminal Rules Committee may make rules for the Court of Appeal, the Ontario Court (General Division) and the Ontario Court (Provincial Division) in relation to the practice and procedure of those courts in proceedings under the *Provincial Offences Act*. *New*.

R.S.O. 1980,  
c. 400

Idem

(3) The Criminal Rules Committee may make rules under subsection (2),

- (a) regulating any matters relating to the practice and procedure of proceedings under the *Provincial Offences Act*;
- (b) prescribing forms;
- (c) regulating the duties of the employees of the courts;
- (d) prescribing and regulating the procedures under any Act that confers jurisdiction under the *Provincial Offences Act* on the Ontario Court (Provincial Division) or a judge or justice of the peace sitting in it;
- (e) prescribing any matter relating to proceedings under the *Provincial Offences Act* that is referred to in an Act as provided for by the rules of court. 1984, c. 11, s. 73 (3), *amended*.

**3. Sections 92 and 93 of the said Act are repealed and the following substituted therefor:**

Ontario  
Courts  
Management  
Advisory  
Committee

**92.**—(1) There shall be a committee, known as the Ontario Courts Management Advisory Committee, composed of,

- (a) the Chief Justice of Ontario, the Associate Chief Justice of Ontario, the Chief Justice of the Ontario Court and the Chief Judge of the Ontario Court (Provincial Division);
- (b) the Attorney General, the Deputy Attorney General, the Assistant Deputy Attorney General responsible for courts administration and the

Assistant Deputy Attorney General responsible for criminal law;

(c) two barristers and solicitors appointed by the Benchers of the Law Society of Upper Canada in convocation and two barristers and solicitors appointed by the presidents of the county and district law associations; and

(d) not more than four other persons, appointed by the Attorney General with the concurrence of,

(i) all of the judges mentioned in clause (a), and

(ii) all of the barristers and solicitors appointed under clause (c).

(2) The following persons shall preside over meetings of the Committee, by rotation at intervals fixed by the Committee: Who to  
preside

1. A judge mentioned in clause (1) (a) selected by the judges mentioned in that clause.

2. The Attorney General or a person mentioned in clause (1) (b) and designated by the Attorney General.

3. A barrister and solicitor appointed under clause (1) (c) selected by the barristers and solicitors appointed under that clause.

4. A person appointed under clause (1) (d) selected by the persons appointed under that clause.

(3) The function of the Committee is to consider and recommend to the appropriate authority policies and procedures to promote the better administration of justice and the effective use of resources, including judicial and other personnel, in the public interest. *New.* Function of  
Committee

**92a.**—(1) For judicial purposes, Ontario is divided into the regions prescribed under subsection (2). Regions for  
judicial  
purposes

(2) The Lieutenant Governor in Council may make regulations prescribing regions for the purpose of this Act. *New.* Regulations

**92b.**—(1) There shall be a committee in each region, known as the Regional Courts Management Advisory Committee, composed of, Regional  
Courts  
Management  
Advisory  
Committee



- (a) the regional senior judge of the Ontario Court (General Division) and the regional senior judge of the Ontario Court (Provincial Division);
- (b) the regional director of courts administration for the Ministry of the Attorney General and the regional director of Crown attorneys;
- (c) two barristers and solicitors appointed jointly by the presidents of the county and district law associations in the region; and
- (d) not more than two other persons, appointed by the Attorney General with the concurrence of,
  - (i) both of the judges mentioned in clause (a), and
  - (ii) both of the barristers and solicitors appointed under clause (c).

Who to  
preside

(2) The following persons shall preside over meetings of the Committee, by rotation at intervals fixed by the Committee:

- 1. A judge mentioned in clause (1) (a) selected by the judges mentioned in that clause.
- 2. An official mentioned in clause (1) (b) selected by the officials mentioned in that clause.
- 3. A barrister and solicitor appointed under clause (1) (c) selected by the barristers and solicitors appointed under that clause.
- 4. A person appointed under clause (1) (d) selected by the persons appointed under that clause.

Function of  
Committee

(3) The function of the Committee is to consider and recommend to the appropriate authority policies and procedures for the region to promote the better administration of justice and the effective use of resources, including judicial and other personnel, in the public interest.

Frequency of  
meetings

(4) The Committee shall meet at least four times each year.  
*New.*

Powers of  
chief or  
regional  
senior judge

**93.**—(1) The powers and duties of a judge who has authority to supervise and direct the sittings and the assignment of the judicial duties of his or her court include the following:

1. Determining the sittings of the court.
2. Assigning judges to the sittings.
3. Assigning cases to individual judges.
4. Determining the sitting schedules and places of sittings for individual judges.
5. Determining the total annual, monthly and weekly workload of individual judges.
6. Preparing trial lists and assigning courtrooms, to the extent necessary to control the determination of who is assigned to hear particular cases. 1984, c. 11, s. 93, *amended*.

(2) Subsection (1) applies with necessary modifications in respect of supervising and directing the sittings and assigning the judicial duties of masters. *New.* Powers in respect of masters

**4. Section 94 of the said Act is amended by adding thereto the following subsections:**

(2) A power or duty given to a registrar, sheriff, court clerk, assessment officer or official examiner under an Act, regulation or rule of court may be exercised or performed by a person or class of persons to whom the power or duty has been assigned by the Deputy Attorney General or a person designated by the Deputy Attorney General. Exercise of powers of registrar, sheriff, etc.

(3) Subsection (2) applies in respect of an Act, regulation or rule of court made under the authority of the Legislature or of the Parliament of Canada. *Idem*

**5. The said Act is amended by adding thereto the following section:**

**95a.** Documents and other material that are no longer required in a court office shall be disposed of in accordance with the directions of the Deputy Attorney General, subject to the approval of, Destruction of documents

- (a) in the Court of Appeal, the Chief Justice of Ontario;
- (b) in the Ontario Court (General Division), the Chief Justice of the Ontario Court;

(c) in the Ontario Court (Provincial Division), the Chief Judge of the Provincial Division;

(d) in the Unified Family Court, the Senior Judge for the Unified Family Court. 1984, c. 11, s. 101 (4), *amended*.

**6. Section 98 of the said Act is repealed and the following substituted therefor:**

Liability of  
judges

**98.** Every judge of a court in Ontario and every master has the same immunity from liability as a judge of the Ontario Court (General Division).

**7. Section 99 of the said Act is repealed and the following substituted therefor:**

Compensation for  
statutory  
duties

**99.** Every judge who was a judge of the Supreme Court or of the District Court before this section comes into force shall be paid out of the Consolidated Revenue Fund the annual sum of \$3,000, payable quarterly, as compensation for the services the judge is called on to render by any Act of the Legislature in addition to his or her ordinary duties.

**8. Subsection 100 (1) of the said Act is amended by striking out "Supreme Court or the District Court" in the first and second lines and inserting in lieu thereof "Court of Appeal or the Ontario Court (General Division)".**

**9. The said Act is further amended by adding thereto the following sections:**

Judges'  
gowns

**100a.** The Lieutenant Governor in Council may make regulations respecting the form of the gown to be worn in court by all judges appointed after this section comes into force.

How certain  
judges to be  
addressed

**100b.—(1)** Every judge of the Ontario Court (General Division) and the Unified Family Court may be addressed as "Your Honour" or as "(*Mr. or Mme.*) Justice (*naming the judge*)".

Idem

(2) A judge appointed to the High Court of Justice before this section comes into force may elect to be addressed according to the practice in existence before this section comes into force.

**10. Section 101 of the said Act is repealed and the following substituted therefor:**



**101.**—(1) Every person who was a master of the Supreme Court before this section comes into force is a master of the Ontario Court (General Division). *New.* Masters

(2) Every master has the jurisdiction conferred by the rules of court in proceedings in the General Division. 1984, c. 11, s. 20 (3). Jurisdiction

(3) Sections 42 to 49 apply with necessary modifications to masters in the same manner as to provincial judges. 1984, c. 11, s. 20 (11), *amended.* Application of ss. 42-49

(4) The right of a master to continue in office under subsection 43 (3) is subject to the approval of the Chief Justice of the Ontario Court and not of the Chief Judge of the Provincial Division. *New.* Idem

**101a.**—(1) Money paid into the Ontario Court (General Division) shall be paid to the Accountant of the Ontario Court and such money and securities in which the money is invested are vested in the Accountant. Money vested in Accountant

(2) Mortgages and other securities taken under an order of the Ontario Court (General Division) and instruments taken as security in respect of a proceeding in the Ontario Court (General Division) shall be taken in the name of the Accountant and shall be deposited in his or her office, except where an order provides otherwise. Security held by Accountant

(3) The Accountant has no duty or obligation in respect of the instruments deposited under subsection (2) except as custodian of the instruments, unless an order of the court provides otherwise. Idem

(4) The Provincial Auditor shall examine and report on the accounts and financial transactions of the Accountant. 1984, c. 11, s. 22, *amended.* Audit by Provincial Auditor

**101b.**—(1) The finance committee is continued and shall be composed of three persons appointed by the Lieutenant Governor in Council. Finance committee

(2) The finance committee has control and management of the money in the Ontario Court (General Division), the investment of the money and the securities in which it is invested. Management of court funds

(3) Money that is available for investment shall be invested in investments in which the Treasurer of Ontario may invest Investment of court funds



R.S.O. 1980, c. 161 public money under section 3 of the *Financial Administration Act*.

Employment of trust company (4) The finance committee may employ a trust company to make the investments or act as custodian of the securities purchased as investments.

Interest (5) The finance committee may provide for the payment of interest on money paid into the General Division and may fix the rate of interest so paid.

Reserve funds (6) The finance committee may establish such reserve funds as it considers necessary. 1984, c. 11, s. 23, *amended*.

**11. Subsection 102 (3) of the said Act is amended by striking out “Rules of Civil Procedure” in the third line and inserting in lieu thereof “rules of court”.**

**12. Section 103 of the said Act is repealed and the following substituted therefor:**

Assessment officers **103.—**(1) The Lieutenant Governor in Council, on the recommendation of the Attorney General, may appoint assessment officers.

Idem (2) Every master is an assessment officer.

Jurisdiction (3) Every assessment officer has jurisdiction to assess costs in a proceeding in any court.

Appeal from assessment of costs before tribunal (4) Where costs of a proceeding before a tribunal other than a court are to be assessed by an assessment officer,

(a) the rules of court governing the procedure on an assessment of costs apply with necessary modifications; and

(b) an appeal lies to the Ontario Court (General Division) from a certificate of assessment of the costs if an objection was served in respect of the issue appealed in accordance with the rules of court.

**13.—**(1) Subsection 104 (1) of the said Act is repealed.

(2) Subsection 104 (2) of the said Act is amended by striking out “additional” in the second line.

**14.—**(1) Subsection 108 (2) of the said Act is amended by striking out “and” where it occurs the second time in the third

line and by inserting after "hearing)" in the fourth line "and 153a (where procedures not provided)".

(2) Subsection 108 (3) of the said Act, as amended by the Statutes of Ontario, 1989, chapter 24, section 4, is repealed and the following substituted therefor:

(3) Sections 122 (constitutional questions), 135, 136 (language of proceedings), 142 (judge sitting on appeal), 146 (prohibition against photography at court hearings), 152a (arrest and committal warrants enforceable by police) and 153a (where procedures not provided) also apply to proceedings under the *Provincial Offences Act* and, for the purpose, a reference in one of those sections to a judge includes a justice of the peace presiding in the Ontario Court (Provincial Division).

Application  
to provincial  
offences

R.S.O. 1980,  
c. 400

15. Subsection 109 (3) of the said Act is repealed and the following substituted therefor:

(3) Only the Court of Appeal, the Unified Family Court and the Ontario Court (General Division), may grant equitable relief, unless otherwise provided.

Jurisdiction  
for equitable  
relief

16. Section 110 of the said Act is amended by striking out "Supreme Court, the District Court and the Unified Family Court" in the first and second lines and inserting in lieu thereof "Court of Appeal, the Unified Family Court and the Ontario Court (General Division)".

17. Subsection 114 (1) of the said Act is amended by striking out "Supreme Court, the District Court or the Unified Family Court" in the first and second lines and inserting in lieu thereof "Unified Family Court or the Ontario Court (General Division)".

18.—(1) Subsection 118 (1) is repealed and the following substituted therefor:

(1) In this section, "health practitioner" means a person licensed to practise medicine or dentistry in Ontario or any other jurisdiction, a psychologist registered under the *Psychologists Registration Act* or a person certified or registered as a psychologist by another jurisdiction.

"health  
practitioner"  
defined  
R.S.O. 1980,  
c. 404

(2) Subsection 118 (2) of the said Act is amended by striking out "medical" in the fourth line and inserting in lieu thereof "health".

(3) Subsection 118 (5) of the said Act is amended by striking out "medical" in the second line and inserting in lieu thereof "health".

**19. Subsections 120 (2) and (3) of the said Act are repealed and the following substituted therefor:**

Transfer  
from Small  
Claims Court

(2) A proceeding in the Small Claims Court shall not be transferred under clause (1) (d) to the Ontario Court (General Division) without the consent of the plaintiff in the proceeding in the Small Claims Court.

Idem

(2a) A proceeding in the Small Claims Court shall not be required under subclause (1) (e) (ii) to be asserted by way of counterclaim in a proceeding in the Ontario Court (General Division) without the consent of the plaintiff in the proceeding in the Small Claims Court.

Motions

(3) The motion shall be made to a judge of the Ontario Court (General Division).

**20.—(1) Subsection 121 (1) of the said Act is amended by striking out "a Supreme Court or District Court action" in the first line and inserting in lieu thereof "an action in the Ontario Court (General Division) that is not in the Small Claims Court".**

(2) Subsection 121 (2) of the said Act is amended by striking out "Actions in which a claim is made for any of the following kinds of relief shall be heard without a jury:" in the first and second lines and inserting in lieu thereof "The issues of fact and the assessment of damages in an action shall be tried without a jury in respect of a claim for any of the following kinds of relief:".

(3) Paragraph 3 of the said subsection 121 (2) is amended by striking out "*Family Law Reform Act*" in the first and second lines and inserting in lieu thereof "*Family Law Act, 1986*".

**21. Subsection 122 (2) of the said Act is amended by striking out "Rules of Civil Procedure" in the second line and inserting in lieu thereof "rules of court".**

**22. Subsection 124 (2) of the said Act is repealed and the following substituted therefor:**

Idem

(2) Mutual debts may be set off against each other even if they are of a different nature.



**23.** Clause 129 (b) of the said Act is amended by striking out "*Family Law Reform Act*" in the first line and inserting in lieu thereof "*Family Law Act, 1986*".

**24.—**(1) Clause 133 (1) (a) of the said Act is amended by striking out "the" in the first line and inserting in lieu thereof "a".

(2) Clause 133 (1) (b) of the said Act is amended by striking out "local judge or".

**25.—**(1) Subclause 136 (1) (a) (ii) of the said Act is repealed and the following substituted therefor:

(ii) the area that comprised the County of Welland as it existed on the 31st day of December, 1969,

(iia) The Regional Municipality of Ottawa-Carleton,

(iib) The Municipality of Metropolitan Toronto.

(2) Subsection 136 (6) of the said Act is amended by striking out "Provincial Court (Family Division) or the Provincial Court (Civil Division)" in the second and third lines and inserting in lieu thereof "Ontario Court (Provincial Division) or the Small Claims Court".

(3) Subsection 136 (7) of the said Act is amended by striking out "in the Provincial Offences Court where it is" in the second and third lines and inserting in lieu thereof "under the *Provincial Offences Act* in".

**26.** Subsection 137 (2) of the said Act is amended by striking out "the Registrar of the Supreme Court" in the first and second lines and inserting in lieu thereof "a person designated by the Deputy Attorney General".

**27.—**(1) Subsection 150 (1) of the said Act is amended by striking out "Supreme Court" in the first line and in the last line and inserting in lieu thereof in each instance "Ontario Court (General Division)".

(2) Subsection 150 (3) of the said Act is amended by striking out "Supreme Court" in the fourth line and inserting in lieu thereof "Ontario Court (General Division)".

**28.** The said Act is further amended by adding thereto the following sections:



Civil orders  
directed to  
sheriffs

**150a.**—(1) Unless an Act provides otherwise, orders of a court arising out of a civil proceeding and enforceable in Ontario shall be directed to a sheriff for enforcement.

Police to  
assist sheriff

(2) A sheriff who believes that the execution of an order may give rise to a breach of the peace may require a police officer to accompany the sheriff and assist in the execution of the order.

Where  
procedures  
not provided

**153a.** Jurisdiction conferred on a court, a judge or a justice of the peace shall, in the absence of express provision for procedures for its exercise in any Act, regulation or rule, be exercised in any manner consistent with the due administration of justice. 1984, c. 11, s. 62, *amended*.

**29.** Sections 157 and 158 of the said Act are repealed and the following substituted therefor:

Continuation  
of  
proceedings  
in former  
courts

**157.** A proceeding pending in a court set out in column 1 of the Table when this section comes into force is continued in the court set out opposite to it in column 2.

TABLE

	<i>Column 1</i>	<i>Column 2</i>
1.	High Court of Justice	Ontario Court (General Division)
2.	District Court	Ontario Court (General Division)
3.	surrogate court	Ontario Court (General Division)
4.	Provincial Court (Criminal Division)	Ontario Court (Provincial Division)
5.	Provincial Court (Family Division)	Ontario Court (Provincial Division)
6.	Provincial Offences Court	Ontario Court (Provincial Division)
7.	Provincial Court (Civil Division)	Small Claims Court

Former Chief  
Judge, etc.

**158.**—(1) A provincial judge who was a Chief Judge, Associate Chief Judge or senior judge of the Provincial Court (Criminal Division), the Provincial Court (Family Division) or the Provincial Court (Civil Division) immediately before this section comes into force shall continue to hold the office of provincial judge, is entitled to retain the title of Chief Judge, Associate Chief Judge or senior judge, as the case may be, and is entitled to an annual salary equal to the greater of,

- (a) the current annual salary of a provincial judge; or
- (b) the annual salary the judge received immediately before this section comes into force.

(2) A master who was the Senior Master immediately before this section comes into force shall continue to hold the office of master, is entitled to retain the title of Senior Master and is entitled to an annual salary equal to the greater of,

Former  
Senior  
Master

- (a) the current annual salary of a master; or
- (b) the annual salary the master received immediately before this section comes into force.

**158a.**—(1) A document filed in court that refers to a court set out in column 1 of the Table to section 160 is not by that reason invalid and shall be deemed to refer to the court set out opposite to it in column 2.

Documents  
filed

(2) Subsection (1) is repealed one year after this section comes into force.

Subsection  
repealed

**30. Section 159 of the said Act is repealed and the following substituted therefor:**

**159.** Where, by an Act or regulation, jurisdiction is conferred on a particular court set out in column 1 of the Table, the jurisdiction shall be deemed to be conferred on the corresponding court set out in column 2 sitting in the county or district of the court named.

Reference to  
territorial  
jurisdiction

TABLE

<i>Column 1</i>	<i>Column 2</i>
1. county or district court	Ontario Court (General Division)
2. surrogate court	Ontario Court (General Division)
3. provincial court (family division)	Ontario Court (Provincial Division)
4. provincial offences court	Ontario Court (Provincial Division)
5. small claims court	Small Claims Court

**31. Section 160 of the said Act is repealed and the following substituted therefor:**

References to  
courts

**160.** A reference in an Act, rule or regulation to a court set out in column 1 of the Table is deemed to be a reference to the court set out opposite to it in column 2.

TABLE

	<i>Column 1</i>	<i>Column 2</i>
1.	Supreme Court	Ontario Court (General Division)
2.	High Court of Justice	Ontario Court (General Division)
3.	county or district court	Ontario Court (General Division)
4.	District Court	Ontario Court (General Division)
5.	surrogate court	Ontario Court (General Division)
6.	small claims court	Small Claims Court
7.	Provincial Court (Civil Division)	Small Claims Court
8.	provincial court (criminal division)	Ontario Court (Provincial Division)
9.	Provincial Court (Criminal Division)	Ontario Court (Provincial Division)
10.	provincial court (family division)	Ontario Court (Provincial Division)
11.	Provincial Court (Family Division)	Ontario Court (Provincial Division)
12.	provincial offences court	Ontario Court (Provincial Division)
13.	Provincial Offences Court	Ontario Court (Provincial Division)

Changes in  
terminology

**160a.**—(1) A reference in any Act, rule or regulation, or order or other court process, to a term set out in column 1 of the Table, or any form thereof, is deemed to refer to the corresponding term set out opposite thereto in column 2.

TABLE

	<i>Column 1</i>	<i>Column 2</i>
1.	Accountant of the Supreme Court	Accountant of the Ontario Court
2.	administrator <i>ad litem</i>	litigation administrator
3.	certificate of <i>lis pendens</i>	certificate of pending litigation
4.	conduct money	attendance money
5.	guardian <i>ad litem</i>	litigation guardian
6.	judicial district	county or district

7.	local judge of the High Court	judge of the Ontario Court (General Division)
8.	local judge of the Supreme Court	judge of the Ontario Court (General Division)
9.	next friend	litigation guardian
10.	originating motion	application
11.	originating notice	notice of application
12.	praecipe	requisition
13.	provisional judicial district	territorial district
14.	a registrar of a surrogate court	the local registrar of the Ontario Court (General Division)
15.	Rules of Civil Procedure	rules of court
16.	Rules Committee	applicable rules committee
17.	Rules Committee of the Supreme and District Courts	applicable rules committee
18.	Rules of Practice and Procedure of the Supreme Court of Ontario made by the Rules Committee	rules of court
19.	special examiner	official examiner
20.	Surrogate Clerk for Ontario	Estate Registrar for Ontario
21.	taxation of costs	assessment of costs
22.	taxing officer	assessment officer
23.	writ of <i>feri facias</i>	writ of seizure and sale
24.	writ of summons	statement of claim or notice of action

(2) A reference in any Act, rule or regulation to the surrogate registrar for a particular county or district is deemed to be a reference to the local registrar of the Ontario Court (General Division) for that county or district.

Idem, surrogate registrar for a county

(3) A reference in any Act, rule or regulation to the clerk of a county or district court of a particular county or district is deemed to be a reference to the local registrar of the Ontario Court (General Division) for that county or district.

Idem, clerk of a county

(4) A reference in any Act, rule or regulation to an order, direction or decision filed with the Registrar of the Supreme Court is deemed to be a reference to an order, direction or decision filed with the Ontario Court (General Division).

Idem, order filed with the Registrar

**160b.** Where an Act, rule or regulation provides that a document is to be filed with, certified to, forwarded to or transmitted to the Supreme Court or the Registrar of the Supreme Court for the purpose of an appeal to the Divisional

Documents filed for appeal to Divisional Court



Court, that document shall be filed with, certified to, forwarded to or transmitted to, as the case may be, the Divisional Court.

References to  
counties for  
judicial  
purposes

**160c.**—(1) A reference in this Act or any other Act, rule or regulation to a county or district for judicial purposes is deemed to be a reference to the corresponding area that, for municipal or territorial purposes, comprises the county, district, union of counties or regional, district or metropolitan municipality.

Separated  
municipalities

(2) For the purpose of subsection (1), every city, town and other municipality is united to and forms part of the county in which it is situate.

Exceptions

(3) Subsection (1) is subject to the following:

1. A reference in an Act or regulation to a county or district for judicial purposes is, in the case of The Regional Municipality of Haldimand-Norfolk, deemed to be a reference to the following areas:
  - i. All the area of the County of Haldimand as it existed on the 31st day of March, 1974.
  - ii. All the area of the County of Norfolk as it existed on the 31st day of March, 1974.
2. A reference in an Act or regulation to a county or district for judicial purposes is, in the case of The Regional Municipality of Niagara, deemed to be a reference to the following areas:
  - i. All the area of the County of Lincoln as it existed on the 31st day of December, 1969.
  - ii. All the area of the County of Welland as it existed on the 31st day of December, 1969.
3. A reference in an Act or regulation to a county or district for judicial purposes is, in the case of The Regional Municipality of Sudbury and the Territorial District of Sudbury, deemed to be a reference to all the area in The Regional Municipality of Sudbury and in the Territorial District of Sudbury.
4. A reference in an Act or regulation to a county or district for judicial purposes is, in the case of an area described below, deemed to be a reference to all the area in the areas described below:

- i. All the area in the County of Victoria.
- ii. All the area in the County of Haliburton.
- iii. All the area in any part of the townships of Sherborne, McClintock, Livingstone, Lawrence and Nightingale located in Algonquin Park, so long as the part remains part of Algonquin Park.

**32.** Section 212 of the said Act is repealed.

**33.** This Act comes into force on a day to be named by proclamation of the Lieutenant Governor. Commence-  
ment

**34.** The short title of this Act is the *Courts of Justice Amendment Act, 1989*. Short title



# Bill 3

## **An Act to amend certain Statutes of Ontario Consequent upon Amendments to the Courts of Justice Act, 1984**

The Hon. I. Scott  
*Attorney General*

*1st Reading*      May 1st, 1989  
*2nd Reading*  
*3rd Reading*  
*Royal Assent*



#### EXPLANATORY NOTE

The Bill repeals the *Sheriffs Act* and makes amendments to 52 other statutes. The amendments are required as a result of the amendments set out in the *Courts of Justice Amendment Act, 1989* changing the structure and administration of the courts.

## Bill 3

1989

**An Act to amend certain Statutes of Ontario  
Consequent upon Amendments to the  
Courts of Justice Act, 1984**

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

**1.—(1)** Subsection 23 (8) of the *Cemeteries Act*, being chapter 59 of the Revised Statutes of Ontario, 1980, is amended by striking out “\$200 or less” in the third line and inserting in lieu thereof “within the monetary jurisdiction of the Small Claims Court”.

(2) Subsection 29 (3) of the said Act is amended by striking out “the judge of the surrogate court of the Judicial District of York” in the fourth and fifth lines and inserting in lieu thereof “a judge of the Ontario Court (General Division) sitting in The Municipality of Metropolitan Toronto”.

**2.** Subsection 63 (1) of the *Child and Family Services Act*, 1984, being chapter 55, is repealed and the following substituted therefor:

(1) The Minister may appoint a judge of the Ontario Court of Justice or the Unified Family Court to investigate a matter relating to a child in a society's care or the proper administration of this Part, and a judge who is appointed shall conduct the investigation and make a written report to the Minister.

Investigation  
by judge

**3.—(1)** Section 3 of the *Children's Law Reform Act*, being chapter 68 of the Revised Statutes of Ontario, 1980, is amended by striking out “the Judicial District” in the second and third lines and inserting in lieu thereof “The Regional Municipality”.

(2) Section 73 of the said Act, as enacted by the Statutes of Ontario, 1982, chapter 20, section 1, is repealed and the following substituted therefor:

Order made  
under  
R.S.O. 1980,  
c. 292

**73.**—(1) An application to vary an order made by a surrogate court under the *Minors Act* shall be made to the Ontario Court (General Division).

Idem  
1984, c. 11

(2) Section 160 of the *Courts of Justice Act, 1984* does not apply to subsection (1) to deem the reference to a surrogate court to be a reference to the Ontario Court (General Division).

**4.**—(1) Section 51 of the *Construction Lien Act, 1983*, being chapter 6, as amended by the Statutes of Ontario, 1984, chapter 11, section 165, is repealed.

(2) Subsection 52 (1) of the said Act, as amended by the Statutes of Ontario, 1984, chapter 11, section 165, is repealed.

(3) Subsections 52 (2) and (3) of the said Act, as amended by the Statutes of Ontario, 1984, chapter 11, section 165, are repealed and the following substituted therefor:

What matters  
not to be  
dealt with by  
master

(2) A master shall not hear or dispose of,

- (a) a motion for the reference of an action to a master for trial;
- (b) an application; or
- (c) a motion in respect of an appeal.

Further  
powers of  
master

(3) In addition to the jurisdiction under subsection (1), a master to whom a reference has been directed has all the jurisdiction, powers and authority of the court to try and completely dispose of the action and all matters and questions arising in connection with the action, including the giving of leave to amend any pleading and the giving of directions to a receiver or trustee appointed by the court.

(4) Section 53 of the said Act, as amended by the Statutes of Ontario, 1984, chapter 11, section 165, is repealed and the following substituted therefor:

Court to  
dispose  
completely of  
action

**53.** The court, whether the action is being tried by a judge or by a master on a reference,

- (a) shall try the action, including any set-off, cross-claim, counterclaim and, subject to section 58, third party claim, and all questions that arise therein or that are necessary to be tried in order to dispose completely of the action and to adjust the rights and

liabilities of the persons appearing before it or upon whom notice of trial has been served; and

- (b) shall take all accounts, make all inquiries, give all directions and do all things necessary to dispose finally of the action and all matters, questions and accounts arising therein or at the trial and to adjust the rights and liabilities of, and give all necessary relief to, all parties to the action.

**(5) Section 54 of the said Act, as amended by the Statutes of Ontario, 1984, chapter 11, section 165, is repealed and the following substituted therefor:**

**54.** A judge or master does not acquire exclusive jurisdiction over the trial of an action or reference by reason only of appointing the time and place for the trial of the action or reference, or for holding a settlement meeting.

Where  
exclusive  
jurisdiction  
not acquired

**(6) Subsection 60 (1) of the said Act, as amended by the Statutes of Ontario, 1984, chapter 11, section 165, is further amended by striking out "or" at the end of clause (a) and by striking out clause (b).**

**(7) Subsection 60 (2) of the said Act, as amended by the Statutes of Ontario, 1984, chapter 11, section 165, is further amended by striking out "or" at the end of clause (a) and by striking out clause (b).**

**(8) Subsection 60 (3) of the said Act, as amended by the Statutes of Ontario, 1984, chapter 11, section 165, is repealed and the following substituted therefor:**

(3) Where under subsection (1) the action has been referred to a master for trial, any person who subsequently becomes a party to the action may, within seven days after becoming a party to the action, make a motion to a judge of the court that directed the reference to set aside the judgment directing the reference.

Application  
to set aside  
order of  
reference

**(9) Clause 64 (1) (b) of the said Act, as amended by the Statutes of Ontario, 1984, chapter 11, section 165, is repealed and the following substituted therefor:**

- (b) in a report in the prescribed form, where the trial is conducted by a master on a reference.

**(10) Subsection 64 (3) of the said Act, as amended by the Statutes of Ontario, 1984, chapter 11, section 165, is repealed and the following substituted therefor:**



When report  
deemed  
confirmed

(3) The report of a master shall be deemed to be confirmed at the expiration of the fifteen-day period next following the date that the notice of filing was given, unless notice of a motion to oppose confirmation of the report is served within that time.

**5.—**(1) Subsection 48 (3) of the *Conveyancing and Law of Property Act*, being chapter 90 of the Revised Statutes of Ontario, 1980, as amended by the Statutes of Ontario, 1986, chapter 64, section 6, is further amended by striking out “the office of the Registrar of the Supreme Court at Osgoode Hall” in the fifth and sixth lines and inserting in lieu thereof “an office of the Ontario Court (General Division)”.

(2) Section 49 of the said Act, as amended by the Statutes of Ontario, 1986, chapter 64, section 6, is further amended by striking out “the office of the Registrar of the Supreme Court at Osgoode Hall” in the thirteenth and fourteenth lines and inserting in lieu thereof “an office of the Ontario Court (General Division)”.

**6.** Subsection 6 (1) of the *Coroners Act*, being chapter 93 of the Revised Statutes of Ontario, 1980, is amended by striking out “the Chief Judge of the County and District Courts” in the second line and inserting in lieu thereof “a judge of the Ontario Court (General Division) designated by the Chief Judge of the Ontario Court”.

**7.—**(1) Subsection 78 (2) of the *Corporations Tax Act*, being chapter 97 of the Revised Statutes of Ontario, 1980, is amended by striking out “Registrar of the Supreme Court or the local registrar of the Supreme Court” in the fourth and fifth lines and inserting in lieu thereof “local registrar of the Ontario Court (General Division)”.

(2) Subsection 80 (1) of the said Act is amended by striking out “Registrar of the Supreme Court or the local registrar of the Supreme Court” in the second and third lines and inserting in lieu thereof “local registrar of the Ontario Court (General Division)”.

**8.—**(1) Clause 3 (2) (a) of the *County of Haliburton Act*, 1982, being chapter 57, is repealed.

(2) Subsection 4 (4) of the said Act is repealed.

**9.—**(1) Section 3 of the *Creditors' Relief Act*, being chapter 103 of the Revised Statutes of Ontario, 1980, as re-enacted by the Statutes of Ontario, 1985, chapter 1, section 1, is amended by adding thereto the following subsection:

(2) Subsection (1) does not affect the priority of a creditor by execution or garnishment issued by the Small Claims Court. Exception

**(2) Subsection 22 (2) of the said Act is repealed and the following substituted therefor:**

(2) Such costs shall be ascertained in accordance with the tariffs of costs under the rules of court applicable to, Scale of costs

- (a) the Small Claims Court, if the claim is within the monetary jurisdiction of that court; or
- (b) the Ontario Court (General Division), in any other case.

**10.—(1) Subsection 3 (1) of the *Crown Attorneys Act*, being chapter 107 of the Revised Statutes of Ontario, 1980, is amended by striking out “the Judicial District of York” in the third and fourth lines and in the sixth line and inserting in lieu thereof in each instance “The Municipality of Metropolitan Toronto”.**

(2) Subsection 3 (2) of the said Act is amended by striking out “the Judicial District of York” wherever it occurs and inserting in lieu thereof in each instance “The Municipality of Metropolitan Toronto”.

(3) Subclause 12 (b) (ii) of the said Act, as re-enacted by the Statutes of Ontario, 1984, chapter 11, section 170, is repealed.

**11.—(1) Subsection 4 (3) of the *District Municipality of Muskoka Act*, being chapter 121 of the Revised Statutes of Ontario, 1980, is repealed.**

(2) Subsection 112 (1) of the said Act is amended by striking out “district court within the District Area or a judge of the county court or district court of a county or district adjoining the District Area” in the second, third and fourth lines and inserting in lieu thereof “Ontario Court (General Division)”.

**12.—(1) Section 69 of the *Election Act, 1984*, being chapter 54, is repealed and the following substituted therefor:**

**69.** In this section and in sections 70 to 80, unless otherwise stated, “judge” means a judge of the Ontario Court (Provincial Division). Definition

(2) Subsection 79 (3) of the said Act is amended by striking out “Registrar of the Supreme Court” in the fifth and sixth

lines and inserting in lieu thereof "local registrar of the Ontario Court (General Division) of the county or district in which the electoral district or any part of it is situate" and by striking out "Registrar" in the eighth line and inserting in lieu thereof "local registrar".

(3) Subsections 79 (4) and (5) of the said Act are amended by striking out "Registrar" wherever it occurs and inserting in lieu thereof in each instance "local registrar".

(4) Subsection 85 (5) of the said Act is amended by striking out "Registrar of the Supreme Court" in the second and third lines and inserting in lieu thereof "local registrar of the Ontario Court (General Division) of the county or district in which the electoral district or any part of it is situate" and by striking out "Registrar" in the fourth line and inserting in lieu thereof "local registrar".

(5) Subsections 98 (5) and (6) of the said Act are repealed and the following substituted therefor:

Local  
registrar to  
notify  
C.E.O.

(5) When an action is commenced by a person other than the Chief Election Officer, the local registrar of the Ontario Court (General Division) shall notify the Chief Election Officer by registered mail.

(6) Subsection 103 (3) of the said Act is amended by striking out "Registrar of the Supreme Court" in the second line and inserting in lieu thereof "local registrar of the Ontario Court (General Division)".

(7) Subsection 105 (1) of the said Act is amended by striking out "Registrar of the Supreme Court" in the sixth and seventh lines and inserting in lieu thereof "local registrar of the Ontario Court (General Division)".

(8) Subsection 106 (7) of the said Act is amended by striking out "Registrar of the Supreme Court" in the first line and inserting in lieu thereof "local registrar of the Ontario Court (General Division)".

(9) Subsection 107 (2) of the said Act is amended by striking out "Registrar" in the second line and inserting in lieu thereof "local registrar".

(10) Subsection 109 (2) of the said Act is repealed and the following substituted therefor:

Appeal to be  
heard  
speedily

(2) The appeal shall be heard as speedily as practicable.



13. Section 49 of the *Evidence Act*, being chapter 145 of the Revised Statutes of Ontario, 1980, is amended by striking out "surrogate court granting the same, or under the seal of the Supreme Court, where the probate or letters of administration were granted by the former court of probate for Upper Canada" in the fifth, sixth, seventh and eighth lines and inserting in lieu thereof "court that granted it or under the seal of the Ontario Court (General Division)".

14. Subsections 24 (2) and (3) of the *Fraudulent Debtors Arrest Act*, being chapter 177 of the Revised Statutes of Ontario, 1980, are repealed.

15.—(1) Subsection 14 (6) of the *Fuel Tax Act, 1981*, being chapter 59, is amended by striking out "Registrar of the Supreme Court or the local registrar of the Supreme Court" in the third and fourth lines and inserting in lieu thereof "local registrar of the Ontario Court (General Division)".

(2) Subsection 14 (10) of the said Act is amended by striking out "Registrar of the Supreme Court or the local registrar of the Supreme Court" in the second and third lines and inserting in lieu thereof "local registrar of the Ontario Court (General Division)".

16. Subsection 14 (2) of the *Gasoline Tax Act*, being chapter 186 of the Revised Statutes of Ontario, 1980, is amended by striking out "Registrar of the Supreme Court or with the local registrar of the Supreme Court" in the fourth and fifth lines and inserting in lieu thereof "local registrar of the Ontario Court (General Division)".

17.—(1) Clause 20 (3) (a) of the *Income Tax Act*, being chapter 213 of the Revised Statutes of Ontario, 1980, is amended by striking out "Registrar of the Supreme Court or the local registrar of the court" in the fifth, sixth and seventh lines and inserting in lieu thereof "local registrar of the Ontario Court (General Division)".

(2) Subsection 21 (3) of the said Act is amended by striking out "Registrar of the Supreme Court or the local registrar of the court" in the fourth and fifth lines and inserting in lieu thereof "local registrar of the Ontario Court (General Division)".

(3) Subsection 21 (6) of the said Act is amended by striking out "Registrar of the Supreme Court or the local registrar of the court, as the case may be" in the first, second and third lines and inserting in lieu thereof "local registrar of the Ontario Court (General Division)".



**18.** Subsection 19 (2) of the *Industrial Standards Act*, being chapter 216 of the Revised Statutes of Ontario, 1980, is amended by striking out “\$1,000” in the fifth line and inserting in lieu thereof “the monetary jurisdiction of the Small Claims Court”.

**19.** Section 61 of the *Insurance Act*, being chapter 218 of the Revised Statutes of Ontario, 1980, is amended by striking out “the Master of the Supreme Court” in the fourth line and inserting in lieu thereof “a referee in a proceeding in the Ontario Court (General Division)”.

**20.—**(1) Clause 27 (i) of the *Interpretation Act*, being chapter 219 of the Revised Statutes of Ontario, 1980, is repealed and the following substituted therefor:

- (i) where the time limited for a proceeding or for the doing of any thing in a court office, a land registry office or a sheriff's office expires or falls on a day that is prescribed as a holiday for that office, the time so limited extends to and the thing may be done on the day next following that is not a holiday.

(2) Paragraphs 9 and 35 of section 30 of the said Act are repealed.

**21.—**(1) Subsection 5 (3) of the *Juries Act*, being chapter 226 of the Revised Statutes of Ontario, 1980, is amended by adding “and” at the end of clause (a) and by striking out clauses (b) and (c) and inserting in lieu thereof:

- (b) to the local registrar of the Ontario Court (General Division), a copy of the determination for the number of jurors under clause (1) (a).

(2) Subsection 12 (1) of the said Act, as amended by the Statutes of Ontario, 1984, chapter 11, section 189, is repealed and the following substituted therefor:

Issuance of  
precepts

(1) A judge of the Ontario Court (General Division) may issue precepts in the form prescribed by the regulations to the sheriff for the return of such number of jurors as the sheriff has determined as the number to be drafted and returned or such greater or lesser number as in his or her opinion is required.

(3) Subsection 12 (1a) of the said Act, as enacted by the Statutes of Ontario, 1984, chapter 11, section 189, is repealed.

(4) Subsection 12 (2) of the said Act is repealed.

(5) Subsection 39 (2) of the said Act is amended by striking out "Registrar or the local registrar of the Supreme Court, as the case may be" in the third and fourth lines and inserting in lieu thereof "local registrar of the Ontario Court (General Division)".

22.—(1) Subsection 6 (1) of the *Justices of the Peace Act*, being chapter 227 of the Revised Statutes of Ontario, 1980, is amended by striking out "chief judge of the provincial courts (criminal division) or the chief judge of the provincial courts (family division), or by a provincial judge designated by either of them" in the fifth, sixth, seventh and eighth lines and inserting in lieu thereof "Chief Judge of the Ontario Court (Provincial Division) or a provincial judge designated by the Chief Judge".

(2) Subsection 6 (2) of the said Act is amended by striking out "chief judge of the provincial courts (criminal division)" in the first and second lines and inserting in lieu thereof "Chief Judge of the Ontario Court (Provincial Division)".

(3) Subsection 6 (3) of the said Act is repealed.

(4) Subsection 6 (4) of the said Act, as enacted by the Statutes of Ontario, 1984, chapter 8, section 1, is amended by striking out "chief judge of the provincial courts (criminal division)" in the fourth line and inserting in lieu thereof "Chief Judge of the Ontario Court (Provincial Division)".

(5) Subsection 6 (5) of the said Act, as enacted by the Statutes of Ontario, 1984, chapter 8, section 1, is repealed.

(6) Subsection 6 (6) of the said Act, as enacted by the Statutes of Ontario, 1984, chapter 8, section 1, is amended by striking out "subsections (4) and (5)" in the first and second lines and inserting in lieu thereof "subsection (4)".

(7) Subsection 7a (2) of the said Act, as enacted by the Statutes of Ontario, 1984, chapter 8, section 3, is amended by striking out "chief judge of the provincial courts (criminal division) or the chief judge of the provincial courts (family division)" in the third, fourth and fifth lines and inserting in lieu thereof "Chief Judge of the Ontario Court (Provincial Division)".

(8) Subsection 8 (1) of the said Act is repealed and the following substituted therefor:

(1) There shall be a Justices of the Peace Review Council composed of,

Justices of  
the Peace  
Review  
Council

- (a) the Chief Judge of the Ontario Court (Provincial Division);
- (b) the regional senior judge of the Ontario Court (Provincial Division) concerned in the matter being considered by the Council; and
- (c) a provincial judge designated by the Chief Judge of the Ontario Court (Provincial Division).

(9) Subsection 8 (4) of the said Act, as amended by the Statutes of Ontario, 1984, chapter 8, section 4, is further amended by striking out “chief judge of the provincial courts (criminal division) or the chief judge of the provincial courts (family division)” in the second, third and fourth lines and inserting in lieu thereof “Chief Judge of the Ontario Court (Provincial Division)”.

(10) Section 8 of the said Act, as amended by the Statutes of Ontario, 1984, chapter 8, section 4, is further amended by adding thereto the following subsection:

Transitional

(8) An investigation commenced by the Justices of the Peace Review Council before this subsection comes into force shall be continued by the Justices of the Peace Review Council as it was constituted before this subsection comes into force.

**23.** Subsection 12 (2) of the *Land Transfer Tax Act*, being chapter 231 of the Revised Statutes of Ontario, 1980, is amended by striking out “Registrar of the Supreme Court or with the Local Registrar of the Supreme Court” in the fourth and fifth lines and inserting in lieu thereof “local registrar of the Ontario Court (General Division)”.

**24.—(1)** Sections 69 and 70 of the *Landlord and Tenant Act*, being chapter 232 of the Revised Statutes of Ontario, 1980, are repealed.

(2) Section 74 of the said Act is repealed and the following substituted therefor:

Scale of costs

**74.** The costs of the proceeding before the judge shall be on the Small Claims Court scale if the amount claimed by the landlord does not exceed the monetary jurisdiction of the Small Claims Court.

**25.** Section 49 of the *Law Society Act*, being chapter 233 of the Revised Statutes of Ontario, 1980, is amended by striking out “Registrar of the Supreme Court” in the fourth line and



inserting in lieu thereof "local registrar of the Ontario Court (General Division) at Toronto".

**26.—**(1) Subsection 17 (3) of the *Legislative Assembly Act*, being chapter 235 of the Revised Statutes of Ontario, 1980, is repealed and the following substituted therefor:

(3) The Clerk of the Assembly shall, on receiving a disclaimer, forthwith send a copy of it to the local registrar of the Ontario Court (General Division) for the county or district in which is situate the electoral district or any part of the electoral district for which the member so disclaiming was elected.

Transmission  
of copy of  
disclaimer

(2) Subsection 47 (2) of the said Act is amended by striking out "the Judicial District of York" in the second and third lines and inserting in lieu thereof "The Municipality of Metropolitan Toronto".

**27.** Subsection 13 (4) of the *Libel and Slander Act*, being chapter 237 of the Revised Statutes of Ontario, 1980, is repealed and the following substituted therefor:

(4) An order made under this section is final and is not subject to appeal.

Order of  
judge  
respecting  
security final

**28.—**(1) Subsection 10 (1) of the *Master and Servant Act*, being chapter 257 of the Revised Statutes of Ontario, 1980, is amended by striking out "small claims court of the division in which the cause of action arose or in which the party or parties complained against, or one of them, resided at the time of the making of the complaint, or to the small claims court held in the division in which the party or parties complained against or one of them carried on business" in the fourth, fifth, sixth, seventh, eighth and ninth lines and inserting in lieu thereof "Ontario Court (General Division)".

(2) Section 11 of the said Act is repealed.

**29.** Subsection 102 (1) of the *Municipal Act*, being chapter 302 of the Revised Statutes of Ontario, 1980, is amended by striking out "county or district court of the county or district in which the municipality is situate, or a judge of the county or district court of a county or district adjoining the county or district in which the municipality is situate" in the second, third, fourth, fifth and sixth lines and inserting in lieu thereof "Ontario Court (General Division)".

**30.—**(1) Subsection 87 (1) of the *Municipal Elections Act*, being chapter 308 of the Revised Statutes of Ontario, 1980, as re-enacted by the Statutes of Ontario, 1988, chapter 33, section



9, is amended by striking out "District Court of" in the ninth line and inserting in lieu thereof "Ontario Court (Provincial Division) sitting in".

(2) Subsection 87 (4) of the said Act, as enacted by the Statutes of Ontario, 1988, chapter 33, section 9, is amended by striking out "local registrar of the District Court" in the third line and inserting in lieu thereof "clerk of the Ontario Court (Provincial Division)".

(3) Subsection 88c (1) of the said Act, as enacted by the Statutes of Ontario, 1988, chapter 33, section 9, is amended by striking out "District Court" in the fourth line and inserting in lieu thereof "Ontario Court (Provincial Division)".

(4) Subsection 88c (2) of the said Act, as enacted by the Statutes of Ontario, 1988, chapter 33, section 9, is amended by striking out "District Court" in the fourth line and inserting in lieu thereof "Ontario Court (Provincial Division)".

(5) Section 88j of the said Act, as enacted by the Statutes of Ontario, 1988, chapter 33, section 9, is amended by,

- (a) striking out "Divisional Court" wherever it occurs and inserting in lieu thereof in each instance "Ontario Court (General Division)";
- (b) striking out "Registrar of the Supreme Court" in the first and second lines of subsection (3) and inserting in lieu thereof "local registrar of the Ontario Court (General Division)"; and
- (c) striking out "Registrar" wherever it occurs in subsections (5) and (6) and inserting in lieu thereof in each instance "local registrar".

**31.** Subsection 252 (1) of the *Municipality of Metropolitan Toronto Act*, being chapter 314 of the Revised Statutes of Ontario, 1980, is amended by striking out "county court of the Judicial District of York, or a judge of the county court of a judicial district adjoining the Judicial District of York" in the second, third and fourth lines and inserting in lieu thereof "Ontario Court (General Division)".

**32.** Subsection 121 (1) of the *County of Oxford Act*, being chapter 365 of the Revised Statutes of Ontario, 1980, is amended by striking out "county court within the County or a judge of the county court of a county or judicial district adjoining the County" in the second, third and fourth lines and inserting in lieu thereof "Ontario Court (General Division)".

**33.—**(1) Subsection 11 (9) of the *Provincial Land Tax Act*, being chapter 399 of the Revised Statutes of Ontario, 1980, as re-enacted by the Statutes of Ontario, 1982, chapter 18, section 7, is amended by striking out “Registrar of the Supreme Court of Ontario or the local registrar of the Supreme Court” in the fourth, fifth and sixth lines and inserting in lieu thereof “local registrar of the Ontario Court (General Division)”.

(2) Subsection 11 (11) of the said Act, as enacted by the Statutes of Ontario, 1982, chapter 18, section 7, is amended by striking out “Registrar of the Supreme Court or the local registrar of the Supreme Court” in the first and second lines and inserting in lieu thereof “local registrar of the Ontario Court (General Division)”.

**34.—**(1) Clause 1 (1) (j) of the *Provincial Offences Act*, being chapter 400 of the Revised Statutes of Ontario, 1980, is amended by striking out “court” in the first line and inserting in lieu thereof “Chief Judge of the Ontario Court (Provincial Division)”.

(2) Subsection 31 (2) of the said Act is amended by striking out “chief judge of the provincial offences courts” in the third and fourth lines and inserting in lieu thereof “Chief Judge of the Ontario Court (Provincial Division)”.

(3) Subsection 31 (3) of the said Act is amended by striking out “chief judge of the provincial offences courts” in the fourth and fifth lines and inserting in lieu thereof “Chief Judge of the Ontario Court (Provincial Division)”.

(4) The said Act is amended by adding thereto the following section:

**90a.—**(1) Except as otherwise provided by an Act, every person who commits contempt in the face of a justice of the peace presiding over the Ontario Court (Provincial Division) in a proceeding under this Act is on conviction liable to a fine of not more than \$1,000 or to imprisonment for a term of not more than thirty days, or to both. Contempt

(2) Before a proceeding is taken for contempt under subsection (1), the justice of the peace shall inform the offender of the conduct complained of and the nature of the contempt and inform him or her of the right to show cause why he or she should not be punished. Statement to offender

(3) A punishment for contempt in the face of the court shall not be imposed without giving the offender an opportunity to show cause why he or she should not be punished. Show cause

Adjournment  
for adjudi-  
cation

(4) Except where, in the opinion of the justice of the peace, it is necessary to deal with the contempt immediately for the preservation of order and control in the courtroom, the justice of the peace shall adjourn the contempt proceeding to another day.

Adjudication  
by judge

(5) A contempt proceeding that is adjourned to another day under subsection (4) shall be heard and determined by the court presided over by a provincial judge.

Arrest for  
immediate  
adjudication

(6) Where the justice of the peace proceeds to deal with a contempt immediately and without adjournment under subsection (4), the justice of the peace may order the offender arrested and detained in the courtroom for the purpose of the hearing and determination.

Barring agent  
in contempt

(7) Where the offender is appearing before the court as an agent who is not a barrister and solicitor entitled to practise in Ontario, the court may order that he or she be barred from acting as agent in the proceeding in addition to any other punishment to which he or she is liable.

Appeals

(8) An order of punishment for contempt under this section is appealable in the same manner as if it were a conviction in a proceeding commenced by certificate under Part I of this Act.

Enforcement

(9) This Act applies for the purpose of enforcing a punishment by way of a fine or imprisonment under this section.

(5) Section 91m of the said Act, as enacted by the Statutes of Ontario, 1983, chapter 80, section 1, is amended by striking out "provincial court (criminal division)" in the sixth line and inserting in lieu thereof "Ontario Court (Provincial Division) presided over by a provincial judge".

(6) Clause 99 (2) (a) of the said Act is amended by striking out "provincial court (criminal division) of" in the second and third lines and inserting in lieu thereof "Ontario Court (Provincial Division) presided over by a provincial judge sitting in".

(7) Subsection 118 (1) of the said Act is amended by striking out "provincial court (criminal division) of" in the fifth line and inserting in lieu thereof "Ontario Court (Provincial Division) presided over by a provincial judge sitting in".

(8) Subsection 122 (1) of the said Act is amended by striking out "provincial court (criminal division)" in the second line



and inserting in lieu thereof "Ontario Court (Provincial Division) in an appeal under section 118".

(9) Section 123 of the said Act is repealed.

(10) Subsection 142 (1) of the said Act is amended by striking out "in the county or district in which the provincial offences court having jurisdiction in respect of the offence is situated" in the thirteenth, fourteenth and fifteenth lines.

**35.—**(1) Subsections 5 (3) and (4) of the *Regional Municipality of Durham Act*, being chapter 434 of the Revised Statutes of Ontario, 1980, are repealed.

(2) Subsection 133 (1) of the said Act is amended by striking out "county court within the Regional Area or a judge of the county court of a county or judicial district adjoining the Regional Area" in the second, third and fourth lines and inserting in lieu thereof "Ontario Court (General Division)".

**36.—**(1) Subsections 5 (3), (4) and (6) of the *Regional Municipality of Haldimand-Norfolk Act*, being chapter 435 of the Revised Statutes of Ontario, 1980, are repealed.

(2) Subsection 116 (1) of the said Act is amended by striking out "county court within the Regional Area or a judge of the county court of a county or judicial district adjoining the Regional Area" in the second, third and fourth lines and inserting in lieu thereof "Ontario Court (General Division)".

**37.—**(1) Subsections 5 (3) and (5) of the *Regional Municipality of Halton Act*, being chapter 436 of the Revised Statutes of Ontario, 1980, are repealed.

(2) Subsection 126 (1) of the said Act is amended by striking out "county court within the Regional Area or a judge of the county court of a county or judicial district adjoining the Regional Area" in the second, third and fourth lines and inserting in lieu thereof "Ontario Court (General Division)".

**38.—**(1) Subsections 4 (3) and (5) of the *Regional Municipality of Hamilton-Wentworth Act*, being chapter 437 of the Revised Statutes of Ontario, 1980, are repealed.

(2) Subsection 138 (1) of the said Act is amended by striking out "county court within the Regional Area or a judge of the county court of a county or judicial district adjoining the Regional Area" in the second, third and fourth lines and inserting in lieu thereof "Ontario Court (General Division)".



**39.**—(1) Subsections 4 (3) and (4) of the *Regional Municipality of Niagara Act*, being chapter 438 of the Revised Statutes of Ontario, 1980, are repealed.

(2) Subsection 165 (1) of the said Act is amended by striking out “either of the county courts within the Regional Area or a judge of the county court of a county adjoining the Regional Area” in the second, third and fourth lines and inserting in lieu thereof “the Ontario Court (General Division)”.

**40.**—(1) Subsection 2 (3) of the *Regional Municipality of Ottawa-Carleton Act*, being chapter 439 of the Revised Statutes of Ontario, 1980, is repealed.

(2) Subsection 168 (1) of the said Act is amended by striking out “county court of the Regional Area or a judge of the county court of a county adjoining the Regional Area” in the second, third and fourth lines and inserting in lieu thereof “Ontario Court (General Division)”.

**41.**—(1) Subsections 5 (3) and (5) of the *Regional Municipality of Peel Act*, being chapter 440 of the Revised Statutes of Ontario, 1980, are repealed.

(2) Subsection 121 (1) of the said Act is amended by striking out “county court within the Regional Area or a judge of the county court of a county or judicial district adjoining the Regional Area” in the second, third and fourth lines and inserting in lieu thereof “Ontario Court (General Division)”.

**42.**—(1) Subsection 4 (3) of the *Regional Municipality of Sudbury Act*, being chapter 441 of the Revised Statutes of Ontario, 1980, is repealed.

(2) Subsection 108 (1) of the said Act is amended by striking out “district court within the Regional Area or a judge of the district court of a district adjoining the Regional Area” in the second, third and fourth lines and inserting in lieu thereof “Ontario Court (General Division)”.

**43.**—(1) Subsections 4 (3) and (5) of the *Regional Municipality of Waterloo Act*, being chapter 442 of the Revised Statutes of Ontario, 1980, are repealed.

(2) Subsection 156 (1) of the said Act is amended by striking out “county court within the Regional Area or a judge of the county court of a county adjoining the Regional Area” in the second, third and fourth lines and inserting in lieu thereof “Ontario Court (General Division)”.

**44.—**(1) Subsection 4 (3) of the *Regional Municipality of York Act*, being chapter 443 of the Revised Statutes of Ontario, 1980, is repealed.

(2) Subsection 157 (1) of the said Act is amended by striking out “county court within the Regional Area or a judge of the county court of a county or judicial district adjoining the Regional Area” in the second, third and fourth lines and inserting in lieu thereof “Ontario Court (General Division)”.

**45.—**(1) Subsection 23 (2) of the *Retail Sales Tax Act*, being chapter 454 of the Revised Statutes of Ontario, 1980, is amended by striking out “Registrar of the Supreme Court or the local registrar of the Supreme Court” in the fourth and fifth lines and inserting in lieu thereof “local registrar of the Ontario Court (General Division)”.

(2) Subsection 25 (1) of the said Act is amended by striking out “Registrar of the Supreme Court or the local registrar of the Supreme Court” in the second and third lines and inserting in lieu thereof “local registrar of the Ontario Court (General Division)”.

**46.** The *Sheriffs Act*, being chapter 470 of the Revised Statutes of Ontario, 1980, as amended by the Statutes of Ontario, 1984, chapter 11, section 212, is repealed.

**47.** Subsection 35 (1) of the *Statute Labour Act*, being chapter 482 of the Revised Statutes of Ontario, 1980, is amended by striking out “Provisional Judicial” in the fifteenth line and inserting in lieu thereof “Territorial”.

**48.—**(1) Sections 2, 4 and 5 of the *Surrogate Courts Act*, being chapter 491 of the Revised Statutes of Ontario, 1980, are repealed.

(2) Sections 6 and 7 of the said Act, as amended by the Statutes of Ontario, 1984, chapter 11, section 215, are repealed.

(3) Sections 8 and 9 of the said Act are repealed.

(4) Section 11 of the said Act, as amended by the Statutes of Ontario, 1982, chapter 10, section 1, is repealed.

(5) Section 12 of the said Act, as amended by the Statutes of Ontario, 1984, chapter 11, section 215, is repealed.

(6) Sections 14 and 15 of the said Act are repealed.

**(7) Section 17 of the said Act is repealed and the following substituted therefor:**

Depository  
for the wills  
of living  
persons

**17.** The office of the local registrar of the Ontario Court (General Division) is a depository for all wills of living persons given there for safekeeping, and the local registrar shall receive and keep those wills under such regulations as are prescribed by the rules of court.

**(8) Section 18 of the said Act is amended by striking out "regulations as are prescribed by the surrogate court rules" in the fourth and fifth lines and inserting in lieu thereof "conditions as are prescribed by the rules of court".**

**(9) Sections 21, 22 and 23 of the said Act are repealed.**

**(10) Section 26 of the said Act is repealed and the following substituted therefor:**

Grant of  
probate or  
adminis-  
tration,  
jurisdiction

**26.—(1)** An application for a grant of probate or letters of administration shall be made to the Ontario Court (General Division) and shall be filed in the office for the county or district in which the testator or intestate had at the time of death a fixed place of abode.

Where  
decedent had  
no abode in  
Ontario

**(2)** If the testator or intestate had no fixed place of abode in Ontario or resided out of Ontario at the time of death, the application shall be filed in the office for the county or district in which the testator or intestate had property at the time of death.

When  
application  
may be filed  
in any office

**(3)** In other cases the application for probate or letters of administration may be filed in any office.

**(11) Sections 27, 28 and 29 of the said Act are repealed.**

**(12) Subsection 30 (1) of the said Act is repealed and the following substituted therefor:**

Trial of  
questions of  
fact by a  
jury

**(1)** The court may cause any question of fact arising in any proceeding to be tried by a jury.

**(13) Section 32 of the said Act is repealed.**

**(14) Subsection 33 (1) of the said Act is repealed and the following substituted therefor:**

Right of  
appeal

**(1)** Any party or person taking part in a proceeding under this Act may appeal to the Divisional Court from an order, determination or judgment of the Ontario Court (General



Division) if the value of the property affected by such order, determination or judgment exceeds \$200.

(15) Subsections 33 (4), (5) and (6) of the said Act are repealed.

(16) Section 34 of the said Act is repealed.

(17) Section 44 of the said Act is amended by striking out "surrogate court" in the sixth line and inserting in lieu thereof "office of the Ontario Court (General Division)".

(18) Section 45 of the said Act is repealed and the following substituted therefor:

**45.** If it appears by the certificate of the Estate Registrar for Ontario that application for probate or administration has been filed in two or more court offices, the proceedings shall be stayed until, on motion, a judge of the Ontario Court (General Division) determines where the application will proceed.

Where  
application  
filed in more  
than one  
office

(19) Section 60 of the said Act is amended by striking out "judge of the court for the time being, or in case of the separation of counties, to enure for the benefit of any judge of a surrogate court to be named by the Supreme Court for that purpose" in the fifth, sixth, seventh and eighth lines and inserting in lieu thereof "Accountant of the Ontario Court".

(20) Subsection 74 (1) of the said Act is repealed.

(21) Subsection 74 (3) of the said Act is repealed and the following substituted therefor:

(3) The judge, on passing the accounts of an executor, administrator or such a trustee, has jurisdiction to enter into and make full inquiry and accounting of and concerning the whole property that the deceased was possessed of or entitled to, and its administration and disbursement.

Powers of  
judge on  
passing  
accounts

(22) Subsection 74 (6) of the said Act is repealed.

(23) Section 78 of the said Act is repealed.

(24) Section 80 of the said Act, as re-enacted by the Statutes of Ontario, 1984, chapter 11, section 215, is repealed.



(25) The title to the *Surrogate Courts Act* is repealed and the following substituted therefor:

ESTATES ACT

**49.—**(1) Section 1 of the *Territorial Division Act*, being chapter 497 of the Revised Statutes of Ontario, 1980, as amended by the Statutes of Ontario, 1982, chapter 57, section 4, is further amended by striking out “5, 5a, 6, 7 and 8 for municipal and judicial purposes such counties, and for judicial purposes such districts and metropolitan and regional areas, are respectively” in the third, fourth, fifth and sixth lines and inserting in lieu thereof “and 5, for municipal purposes such counties are”.

(2) Paragraph 2 of section 1 of the said Act is amended by striking out the following sentences at the end thereof:

“The Indian Reserve at Cape Croker shall, for judicial purposes, be deemed part of the Township of Albemarle.

“The Indian Reserve at Chief’s Point and the Saugeen Indian Reserve north of the mouth of the Saugeen River shall, for judicial purposes, be deemed part of the Township of Amabel”.

(3) Paragraph 42 of the said section 1 is amended by striking out “The Territorial District of Algoma forms the Provisional Judicial District of Algoma” in the seventh and eighth lines from the end thereof.

(4) Paragraph 43 of the said section 1 is amended by striking out “The Territorial District of Cochrane forms the Provisional Judicial District of Cochrane” at the end thereof.

(5) Paragraph 44 of the said section 1 is amended by striking out “The Territorial District of Kenora forms the Provisional Judicial District of Kenora” at the end thereof.

(6) Paragraph 45 of the said section 1 is amended by striking out “The Territorial District of Manitoulin forms the Provisional Judicial District of Manitoulin” at the end thereof.

(7) Paragraph 46 of the said section 1 is amended by striking out “The District Municipality of Muskoka forms the Provisional Judicial District of Muskoka” at the end thereof.

(8) Paragraph 47 of the said section 1 is amended by striking out “The Territorial District of Nipissing forms the Provisional Judicial District of Nipissing” at the end thereof.

(9) Paragraph 48 of the said section 1 is amended by striking out "The Territorial District of Parry Sound forms the Provisional Judicial District of Parry Sound" at the end thereof.

(10) Paragraph 49 of the said section 1 is amended by striking out "The Territorial District of Rainy River forms the Provisional Judicial District of Rainy River" at the end thereof.

(11) Paragraph 50 of the said section 1, as amended by the Statutes of Ontario, 1986, chapter 52, section 1, is further amended by striking out "The Territorial District of Sudbury forms the Provisional Judicial District of Sudbury" at the end thereof.

(12) Paragraph 51 of the said section 1 is amended by striking out "The Territorial District of Thunder Bay forms the Provisional Judicial District of Thunder Bay" at the end thereof.

(13) Paragraph 52 of the said section 1 is amended by striking out "The Territorial District of Timiskaming forms the Provisional Judicial District of Timiskaming" at the end thereof.

(14) Subsection 4 (1) of the said Act is amended by striking out "judicial" in the first line.

(15) Subsection 4 (2) of the said Act is amended by striking out "courts" in the fourth line.

(16) Section 5 of the said Act is repealed and the following substituted therefor:

5. For municipal purposes, cities, towns and other municipalities withdrawn from the jurisdiction of a county do not form part of the counties in which they are respectively situate.

Cities and  
towns

(17) Section 5a of the said Act, as enacted by the Statutes of Ontario, 1982, chapter 57, section 4, is repealed.

(18) Sections 6, 7 and 8 of the said Act are repealed.

(19) Clause 15 (b) of the said Act is amended by striking out "or provisional judicial district" in the first and second lines.

50. Subsection 13 (2) of the *Tobacco Tax Act*, being chapter 502 of the Revised Statutes of Ontario, 1980, is amended by striking out "Registrar of the Supreme Court or with the local registrar of the Supreme Court" in the fourth and fifth lines

and inserting in lieu thereof “local registrar of the Ontario Court (General Division)”.

**51.** Subsection 27 (1) of the *Vital Statistics Act*, being chapter 524 of the Revised Statutes of Ontario, 1980, is amended by striking out “The Registrar of the Supreme Court and every local registrar of the Supreme Court” in the first and second lines and inserting in lieu thereof “Every local registrar of the Ontario Court (General Division)”.

**52.—**(1) Subsection 10 (1) of the *Woodmen’s Lien for Wages Act*, being chapter 537 of the Revised Statutes of Ontario, 1980, is amended by striking out “\$1,000” in the third line and in the sixth line and inserting in lieu thereof in each instance “the monetary jurisdiction of the Small Claims Court”.

(2) Section 16 of the said Act is amended by striking out “\$1,000” in the first line and inserting in lieu thereof “the monetary jurisdiction of the Small Claims Court”.

(3) Subsection 17 (1) of the said Act is amended by striking out “\$1,000” in the first line and inserting in lieu thereof “the monetary jurisdiction of the Small Claims Court”.

**53.** Section 116 of the *Workers’ Compensation Act*, being chapter 539 of the Revised Statutes of Ontario, 1980, is amended by striking out “\$1,000” in the ninth line and inserting in lieu thereof “the monetary jurisdiction of the Small Claims Court”.

Commence-  
ment

**54.** This Act comes into force on a day to be named by proclamation of the Lieutenant Governor.

Short title

**55.** The short title of this Act is the *Court Reform Statute Law Amendment Act, 1989*.

# Bill 3

## **An Act to amend certain Statutes of Ontario Consequent upon Amendments to the Courts of Justice Act, 1984**

The Hon. I. Scott  
*Attorney General*

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<i>1st Reading</i>	May 1st, 1989
<i>2nd Reading</i>	June 14th, 1989
<i>3rd Reading</i>	
<i>Royal Assent</i>	

*(Reprinted as amended by the Administration of Justice Committee)*

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### EXPLANATORY NOTE

The Bill repeals the *Sheriffs Act* and makes amendments to 52 other statutes. The amendments are required as a result of the amendments set out in the *Courts of Justice Amendment Act, 1989* changing the structure and administration of the courts.

## Bill 3

1989

**An Act to amend certain Statutes of Ontario  
Consequent upon Amendments to the  
Courts of Justice Act, 1984**

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

**1.—(1)** Subsection 23 (8) of the *Cemeteries Act*, being chapter 59 of the Revised Statutes of Ontario, 1980, is amended by striking out “\$200 or less” in the third line and inserting in lieu thereof “within the monetary jurisdiction of the Small Claims Court”.

(2) Subsection 29 (3) of the said Act is amended by striking out “the judge of the surrogate court of the Judicial District of York” in the fourth and fifth lines and inserting in lieu thereof “a judge of the Ontario Court (General Division) sitting in The Municipality of Metropolitan Toronto”.

**2.** Subsection 63 (1) of the *Child and Family Services Act*, 1984, being chapter 55, is repealed and the following substituted therefor:

(1) The Minister may appoint a judge of the Ontario Court of Justice or the Unified Family Court to investigate a matter relating to a child in a society's care or the proper administration of this Part, and a judge who is appointed shall conduct the investigation and make a written report to the Minister.

Investigation  
by judge

**3.—(1)** Section 3 of the *Children's Law Reform Act*, being chapter 68 of the Revised Statutes of Ontario, 1980, is amended by striking out “the Judicial District” in the second and third lines and inserting in lieu thereof “The Regional Municipality”.

(2) Section 73 of the said Act, as enacted by the Statutes of Ontario, 1982, chapter 20, section 1, is repealed and the following substituted therefor:

Order made  
under  
R.S.O. 1980,  
c. 292

**73.—**(1) An application to vary an order made by a surrogate court under the *Minors Act* shall be made to the Ontario Court (General Division).

Idem  
1984, c. 11

(2) Section 160 of the *Courts of Justice Act, 1984* does not apply to subsection (1) to deem the reference to a surrogate court to be a reference to the Ontario Court (General Division).

**4.—**(1) Section 51 of the *Construction Lien Act, 1983*, being chapter 6, as amended by the Statutes of Ontario, 1984, chapter 11, section 165, is repealed.

(2) Section 52 of the said Act, as amended by the Statutes of Ontario, 1984, chapter 11, section 165, is repealed.

(3) Section 53 of the said Act, as amended by the Statutes of Ontario, 1984, chapter 11, section 165, is repealed and the following substituted therefor:

Court to  
dispose  
completely of  
action

**53.** The court, whether the action is being tried by a judge or by a master on a reference,

(a) shall try the action, including any set-off, cross-claim, counterclaim and, subject to section 58, third party claim, and all questions that arise therein or that are necessary to be tried in order to dispose completely of the action and to adjust the rights and liabilities of the persons appearing before it or upon whom notice of trial has been served; and

(b) shall take all accounts, make all inquiries, give all directions and do all things necessary to dispose finally of the action and all matters, questions and accounts arising therein or at the trial and to adjust the rights and liabilities of, and give all necessary relief to, all parties to the action.

(4) Section 54 of the said Act, as amended by the Statutes of Ontario, 1984, chapter 11, section 165, is repealed and the following substituted therefor:

Where  
exclusive  
jurisdiction  
not acquired

**54.** A judge or master does not acquire exclusive jurisdiction over the trial of an action or reference by reason only of appointing the time and place for the trial of the action or reference, or for holding a settlement meeting.

(5) Subsection 60 (1) of the said Act, as amended by the Statutes of Ontario, 1984, chapter 11, section 165, is repealed and the following substituted therefor:

(1) On motion made after the delivery of all statements of defence, or the statements of defence to all crossclaims, counterclaims or third party claims, if any, or the time for their delivery has expired, a judge may refer the whole action for trial to a master assigned to the county or district in which the premises or part of the premises are situate. Reference to master

(1a) A master shall not hear or dispose of a motion made under subsection (1). Idem

**(6) Subsection 60 (2) of the said Act, as amended by the Statutes of Ontario, 1984, chapter 11, section 165, is repealed and the following substituted therefor:**

(2) At the trial, a judge may direct a reference to a master assigned to the county or district in which the premises or part of the premises are situate. Idem

(2a) A master to whom a reference has been directed has all the jurisdiction, powers and authority of the court to try and completely dispose of the action and all matters and questions arising in connection with the action, including the giving of leave to amend any pleading and the giving of directions to a receiver or trustee appointed by the court. Powers of master on reference

**(7) Subsection 60 (3) of the said Act, as amended by the Statutes of Ontario, 1984, chapter 11, section 165, is repealed and the following substituted therefor:**

(3) Where under subsection (1) the action has been referred to a master for trial, any person who subsequently becomes a party to the action may, within seven days after becoming a party to the action, make a motion to a judge of the court that directed the reference to set aside the judgment directing the reference. Application to set aside order of reference

**(8) Clause 64 (1) (b) of the said Act, as amended by the Statutes of Ontario, 1984, chapter 11, section 165, is repealed and the following substituted therefor:**

(b) in a report in the prescribed form, where the trial is conducted by a master on a reference.

**(2) Subsection 64 (3) of the said Act, as amended by the Statutes of Ontario, 1984, chapter 11, section 165, is repealed and the following substituted therefor:**

(3) The report of a master shall be deemed to be confirmed at the expiration of the fifteen-day period next following the date that the notice of filing was given, unless notice of a When report deemed confirmed



motion to oppose confirmation of the report is served within that time.

5.—(1) Subsection 48 (3) of the *Conveyancing and Law of Property Act*, being chapter 90 of the Revised Statutes of Ontario, 1980, as amended by the Statutes of Ontario, 1986, chapter 64, section 6, is further amended by striking out “the office of the Registrar of the Supreme Court at Osgoode Hall” in the fifth and sixth lines and inserting in lieu thereof “an office of the Ontario Court (General Division)”.

(2) Section 49 of the said Act, as amended by the Statutes of Ontario, 1986, chapter 64, section 6, is further amended by striking out “the office of the Registrar of the Supreme Court at Osgoode Hall” in the thirteenth and fourteenth lines and inserting in lieu thereof “an office of the Ontario Court (General Division)”.

6. Subsection 6 (1) of the *Coroners Act*, being chapter 93 of the Revised Statutes of Ontario, 1980, is amended by striking out “the Chief Judge of the County and District Courts” in the second line and inserting in lieu thereof “a judge of the Ontario Court (General Division) designated by the Chief Judge of the Ontario Court”.

7.—(1) Subsection 78 (2) of the *Corporations Tax Act*, being chapter 97 of the Revised Statutes of Ontario, 1980, is amended by striking out “Registrar of the Supreme Court or the local registrar of the Supreme Court” in the fourth and fifth lines and inserting in lieu thereof “local registrar of the Ontario Court (General Division)”.

(2) Subsection 80 (1) of the said Act is amended by striking out “Registrar of the Supreme Court or the local registrar of the Supreme Court” in the second and third lines and inserting in lieu thereof “local registrar of the Ontario Court (General Division)”.

8.—(1) Clause 3 (2) (a) of the *County of Haliburton Act*, 1982, being chapter 57, is repealed.

(2) Subsection 4 (4) of the said Act is repealed.

9.—(1) Section 3 of the *Creditors' Relief Act*, being chapter 103 of the Revised Statutes of Ontario, 1980, as re-enacted by the Statutes of Ontario, 1985, chapter 1, section 1, is amended by adding thereto the following subsection:

(2) Subsection (1) does not affect the priority of a creditor by execution or garnishment issued by the Small Claims Court. Exception

**(2) Subsection 22 (2) of the said Act is repealed and the following substituted therefor:**

(2) Such costs shall be ascertained in accordance with the tariffs of costs under the rules of court applicable to, Scale of costs

(a) the Small Claims Court, if the claim is within the monetary jurisdiction of that court; or

(b) the Ontario Court (General Division), in any other case.

**10.—(1) Subsection 3 (1) of the *Crown Attorneys Act*, being chapter 107 of the Revised Statutes of Ontario, 1980, is amended by striking out “the Judicial District of York” in the third and fourth lines and in the sixth line and inserting in lieu thereof in each instance “The Municipality of Metropolitan Toronto”.**

(2) Subsection 3 (2) of the said Act is amended by striking out “the Judicial District of York” wherever it occurs and inserting in lieu thereof in each instance “The Municipality of Metropolitan Toronto”.

(3) Subclause 12 (b) (ii) of the said Act, as re-enacted by the Statutes of Ontario, 1984, chapter 11, section 170, is repealed.

**11.—(1) Subsection 4 (3) of the *District Municipality of Muskoka Act*, being chapter 121 of the Revised Statutes of Ontario, 1980, is repealed.**

(2) Subsection 112 (1) of the said Act is amended by striking out “district court within the District Area or a judge of the county court or district court of a county or district adjoining the District Area” in the second, third and fourth lines and inserting in lieu thereof “Ontario Court (General Division)”.

**12.—(1) Section 69 of the *Election Act, 1984*, being chapter 54, is repealed and the following substituted therefor:**

**69.** In this section and in sections 70 to 80, unless otherwise stated, “judge” means a judge of the Ontario Court (Provincial Division). Definition

**(2) Subsection 70 (2) of the said Act is amended by striking out “the clerk of the county or district court” in the third line**

and inserting in lieu thereof "a clerk of the Ontario Court (Provincial Division) of the county or district in which the electoral district or any part of it is situate".

(3) Subsection 72 (2) of the said Act is amended by striking out "of the county or district court" in the first and second lines.

(4) Section 78 of the said Act is amended by striking out "court of the county or judicial district" in the fourth and fifth lines and inserting in lieu thereof "Ontario Court (Provincial Division)".

(5) Subsection 79 (3) of the said Act is amended by striking out "Registrar of the Supreme Court" in the fifth and sixth lines and inserting in lieu thereof "local registrar of the Ontario Court (General Division) of the county or district in which the electoral district or any part of it is situate" and by striking out "Registrar" in the eighth line and inserting in lieu thereof "local registrar".

(6) Subsections 79 (4) and (5) of the said Act are amended by striking out "Registrar" wherever it occurs and inserting in lieu thereof in each instance "local registrar".

(7) Subsection 85 (5) of the said Act is amended by striking out "Registrar of the Supreme Court" in the second and third lines and inserting in lieu thereof "local registrar of the Ontario Court (General Division) of the county or district in which the electoral district or any part of it is situate" and by striking out "Registrar" in the fourth line and inserting in lieu thereof "local registrar".

(8) Subsections 98 (5) and (6) of the said Act are repealed and the following substituted therefor:

Local  
registrar to  
notify  
C.E.O.

(5) When an action is commenced by a person other than the Chief Election Officer, the local registrar of the Ontario Court (General Division) shall notify the Chief Election Officer by registered mail.

(9) Subsection 103 (3) of the said Act is amended by striking out "Registrar of the Supreme Court" in the second line and inserting in lieu thereof "local registrar of the Ontario Court (General Division)".

(10) Subsection 105 (1) of the said Act is amended by striking out "Registrar of the Supreme Court" in the sixth and seventh lines and inserting in lieu thereof "local registrar of the Ontario Court (General Division)".



(11) Subsection 106 (7) of the said Act is amended by striking out "Registrar of the Supreme Court" in the first line and inserting in lieu thereof "local registrar of the Ontario Court (General Division)".

(12) Subsection 107 (2) of the said Act is amended by striking out "Registrar" in the second line and inserting in lieu thereof "local registrar".

(13) Subsection 109 (2) of the said Act is repealed and the following substituted therefor:

(2) The appeal shall be heard as speedily as practicable.

Appeal to be  
heard  
speedily

13. Section 49 of the *Evidence Act*, being chapter 145 of the Revised Statutes of Ontario, 1980, is amended by striking out "surrogate court granting the same, or under the seal of the Supreme Court, where the probate or letters of administration were granted by the former court of probate for Upper Canada" in the fifth, sixth, seventh and eighth lines and inserting in lieu thereof "court that granted it or under the seal of the Ontario Court (General Division)".

14. Subsections 24 (2) and (3) of the *Fraudulent Debtors Arrest Act*, being chapter 177 of the Revised Statutes of Ontario, 1980, are repealed.

15.—(1) Subsection 14 (6) of the *Fuel Tax Act, 1981*, being chapter 59, is amended by striking out "Registrar of the Supreme Court or the local registrar of the Supreme Court" in the third and fourth lines and inserting in lieu thereof "local registrar of the Ontario Court (General Division)".

(2) Subsection 14 (10) of the said Act is amended by striking out "Registrar of the Supreme Court or the local registrar of the Supreme Court" in the second and third lines and inserting in lieu thereof "local registrar of the Ontario Court (General Division)".

16. Subsection 14 (2) of the *Gasoline Tax Act*, being chapter 186 of the Revised Statutes of Ontario, 1980, is amended by striking out "Registrar of the Supreme Court or with the local registrar of the Supreme Court" in the fourth and fifth lines and inserting in lieu thereof "local registrar of the Ontario Court (General Division)".

17.—(1) Clause 20 (3) (a) of the *Income Tax Act*, being chapter 213 of the Revised Statutes of Ontario, 1980, is amended by striking out "Registrar of the Supreme Court or the local registrar of the court" in the fifth, sixth and seventh



lines and inserting in lieu thereof "local registrar of the Ontario Court (General Division)".

(2) Subsection 21 (3) of the said Act is amended by striking out "Registrar of the Supreme Court or the local registrar of the court" in the fourth and fifth lines and inserting in lieu thereof "local registrar of the Ontario Court (General Division)".

(3) Subsection 21 (6) of the said Act is amended by striking out "Registrar of the Supreme Court or the local registrar of the court, as the case may be" in the first, second and third lines and inserting in lieu thereof "local registrar of the Ontario Court (General Division)".

**18.** Subsection 19 (2) of the *Industrial Standards Act*, being chapter 216 of the Revised Statutes of Ontario, 1980, is amended by striking out "\$1,000" in the fifth line and inserting in lieu thereof "the monetary jurisdiction of the Small Claims Court".

**19.** Section 61 of the *Insurance Act*, being chapter 218 of the Revised Statutes of Ontario, 1980, is amended by striking out "the Master of the Supreme Court" in the fourth line and inserting in lieu thereof "a referee in a proceeding in the Ontario Court (General Division)".

**20.—**(1) Clause 27 (i) of the *Interpretation Act*, being chapter 219 of the Revised Statutes of Ontario, 1980, is repealed and the following substituted therefor:

- (i) where the time limited for a proceeding or for the doing of any thing in a court office, a land registry office or a sheriff's office expires or falls on a day that is prescribed as a holiday for that office, the time so limited extends to and the thing may be done on the day next following that is not a holiday.

(2) Paragraphs 9 and 35 of section 30 of the said Act are repealed.

**21.—**(1) Subsection 5 (3) of the *Juries Act*, being chapter 226 of the Revised Statutes of Ontario, 1980, is amended by adding "and" at the end of clause (a) and by striking out clauses (b) and (c) and inserting in lieu thereof:

- (b) to the local registrar of the Ontario Court (General Division), a copy of the determination for the number of jurors under clause (1) (a).

(2) Subsection 12 (1) of the said Act, as amended by the Statutes of Ontario, 1984, chapter 11, section 189, is repealed and the following substituted therefor:

(1) A judge of the Ontario Court (General Division) may issue precepts in the form prescribed by the regulations to the sheriff for the return of such number of jurors as the sheriff has determined as the number to be drafted and returned or such greater or lesser number as in his or her opinion is required.

Issuance of  
precepts

(3) Subsection 12 (1a) of the said Act, as enacted by the Statutes of Ontario, 1984, chapter 11, section 189, is repealed.

(4) Subsection 12 (2) of the said Act is repealed.

(5) Subsection 39 (2) of the said Act is amended by striking out "Registrar or the local registrar of the Supreme Court, as the case may be" in the third and fourth lines and inserting in lieu thereof "local registrar of the Ontario Court (General Division)".

22.—(1) Clauses 9 (1) (a), (b) and (c) of the *Justices of the Peace Act, 1989*, being chapter 46, are repealed and the following substituted therefor:

- (a) the Chief Judge of the Ontario Court (Provincial Division) who shall preside over the Review Council;
- (b) the Co-ordinator;
- (c) the regional senior judge of the Ontario Court (Provincial Division) in the region in which the matter being considered by the Council arises.

. . . . .

- a) le juge en chef de la Cour de l'Ontario (Division provinciale), qui préside le Conseil;
- b) le coordonnateur;
- c) le juge principal régional de la Cour de l'Ontario (Division provinciale) de la région où se présente l'affaire dont traite le Conseil.

(2) Subsection 14 (1) of the said Act is repealed and the following substituted therefor:

Co-ordinator  
to supervise  
justices,  
assign duties

(1) The Co-ordinator has general supervision and direction over sittings of justices of the peace and the assignment of their duties, subject to the direction of the Chief Judge of the Ontario Court (Provincial Division).

. . . . .

Surveillance,  
etc., par le  
coordon-  
nateur

(1) Le coordonnateur est chargé de l'administration et de la surveillance des sessions des juges de paix et de l'assignation de leurs fonctions, sous réserve de la direction du juge en chef de la Cour de l'Ontario (Division provinciale).

(3) Subsection 14 (6) of the said Act is amended by striking out "a" in the fourth line of the English version and inserting in lieu thereof "the" and by striking out "d'un" in the fifth line of the French version and inserting in lieu thereof "du".

23. Subsection 12 (2) of the *Land Transfer Tax Act*, being chapter 231 of the Revised Statutes of Ontario, 1980, is amended by striking out "Registrar of the Supreme Court or with the Local Registrar of the Supreme Court" in the fourth and fifth lines and inserting in lieu thereof "local registrar of the Ontario Court (General Division)".

24.—(1) Sections 69 and 70 of the *Landlord and Tenant Act*, being chapter 232 of the Revised Statutes of Ontario, 1980, are repealed.

(2) Section 74 of the said Act is repealed and the following substituted therefor:

Scale of costs

74. The costs of the proceeding before the judge shall be on the Small Claims Court scale if the amount claimed by the landlord does not exceed the monetary jurisdiction of the Small Claims Court.

25. Section 49 of the *Law Society Act*, being chapter 233 of the Revised Statutes of Ontario, 1980, is amended by striking out "Registrar of the Supreme Court" in the fourth line and inserting in lieu thereof "local registrar of the Ontario Court (General Division) at Toronto".

26.—(1) Subsection 17 (3) of the *Legislative Assembly Act*, being chapter 235 of the Revised Statutes of Ontario, 1980, is repealed and the following substituted therefor:

Transmission  
of copy of  
disclaimer

(3) The Clerk of the Assembly shall, on receiving a disclaimer, forthwith send a copy of it to the local registrar of the Ontario Court (General Division) for the county or district in



which is situate the electoral district or any part of the electoral district for which the member so disclaiming was elected.

(2) Subsection 47 (2) of the said Act is amended by striking out “the Judicial District of York” in the second and third lines and inserting in lieu thereof “The Municipality of Metropolitan Toronto”.

**27.** Subsection 13 (4) of the *Libel and Slander Act*, being chapter 237 of the Revised Statutes of Ontario, 1980, is repealed and the following substituted therefor:

(4) An order made under this section is final and is not subject to appeal.

Order of  
judge  
respecting  
security final

**28.—**(1) Subsection 10 (1) of the *Master and Servant Act*, being chapter 257 of the Revised Statutes of Ontario, 1980, is amended by striking out “small claims court of the division in which the cause of action arose or in which the party or parties complained against, or one of them, resided at the time of the making of the complaint, or to the small claims court held in the division in which the party or parties complained against or one of them carried on business” in the fourth, fifth, sixth, seventh, eighth and ninth lines and inserting in lieu thereof “Ontario Court (General Division)”.

(2) Section 11 of the said Act is repealed.

**29.** Subsection 102 (1) of the *Municipal Act*, being chapter 302 of the Revised Statutes of Ontario, 1980, is amended by striking out “county or district court of the county or district in which the municipality is situate, or a judge of the county or district court of a county or district adjoining the county or district in which the municipality is situate” in the second, third, fourth, fifth and sixth lines and inserting in lieu thereof “Ontario Court (General Division)”.

**30.—**(1) Subsection 87 (1) of the *Municipal Elections Act*, being chapter 308 of the Revised Statutes of Ontario, 1980, as re-enacted by the Statutes of Ontario, 1988, chapter 33, section 9, is amended by striking out “District Court of” in the ninth line and inserting in lieu thereof “Ontario Court (Provincial Division) sitting in”.

(2) Subsection 87 (4) of the said Act, as enacted by the Statutes of Ontario, 1988, chapter 33, section 9, is amended by striking out “the local registrar of the District Court” in the third line and inserting in lieu thereof “a clerk of the Ontario Court (Provincial Division) of the county or district in which the electoral district or any part of it is situate”.



(3) Subsection 88c (1) of the said Act, as enacted by the Statutes of Ontario, 1988, chapter 33, section 9, is amended by striking out "District Court" in the fourth line and inserting in lieu thereof "Ontario Court (Provincial Division)".

(4) Subsection 88c (2) of the said Act, as enacted by the Statutes of Ontario, 1988, chapter 33, section 9, is amended by striking out "District Court" in the fourth line and inserting in lieu thereof "Ontario Court (Provincial Division)".

(5) Section 88j of the said Act, as enacted by the Statutes of Ontario, 1988, chapter 33, section 9, is repealed and the following substituted therefor:

Appeal from  
decision of  
provincial  
judge or  
recount  
officer

**88j.**—(1) Any party may appeal to the Ontario Court (General Division) from the decision of the provincial judge on the application or of the recount officer on the recount, as the case may be, by giving written notice not more than five days following the completion of the hearing or the recount to the other parties concerned and to the provincial judge or the recount officer and the notice may limit the appeal to specified disputed ballots.

Service of  
notice

(2) The notice shall be served upon the other parties personally or upon the solicitor who acted for the party or in the manner that a judge of the Ontario Court (General Division) may direct.

Documents  
to be  
forwarded

(3) The provincial judge or recount officer shall forward to the local registrar of the Ontario Court (General Division) by registered mail,

- (a) the notice of appeal;
- (b) a certificate showing the findings of the provincial judge or recount officer on the ballots or statements in dispute;
- (c) if the appeal is limited to specified disputed ballots, the ballots or statements of the vote that are the subject of the appeal in the envelopes described in subsection 88c (7) and section 88d; and
- (d) if the appeal is not limited, all of the ballots in the envelopes referred to in clause 88c (8) (b) or 88e (1) (b).

Certificate to  
be issued  
after appeal

(4) The provincial judge or recount officer shall await the result of the appeal before preparing the certificate under subsection 88c (8) or 88e (2).

(5) The provincial judge or recount officer shall, upon request, allow each party to make a copy of the order or certificate, as the case may be, before it is forwarded to the local registrar.

Copy of  
certificate

(6) On receipt of the ballots, notice and statement, the local registrar shall immediately fix a time for hearing the appeal and shall notify the parties or their solicitors of the time so fixed.

Appointment  
for hearing

(7) One judge of the Ontario Court (General Division) shall determine the objection pertaining to, or count again, the ballots or such of them as are the subject of appeal, or review the re-addition, as the case may be, and shall immediately certify in writing the decision of the court to the provincial judge or to the recount officer.

Determi-  
nation by  
General  
Division

(8) The provincial judge or recount officer, in compliance with the decision of the Ontario Court (General Division), shall certify the result without delay.

Certificate to  
reflect  
decision

**31. Subsection 252 (1) of the *Municipality of Metropolitan Toronto Act*, being chapter 314 of the Revised Statutes of Ontario, 1980, is amended by striking out "county court of the Judicial District of York, or a judge of the county court of a judicial district adjoining the Judicial District of York" in the second, third and fourth lines and inserting in lieu thereof "Ontario Court (General Division)".**

**32. Subsection 121 (1) of the *County of Oxford Act*, being chapter 365 of the Revised Statutes of Ontario, 1980, is amended by striking out "county court within the County or a judge of the county court of a county or judicial district adjoining the County" in the second, third and fourth lines and inserting in lieu thereof "Ontario Court (General Division)".**

**33.—(1) Subsection 11 (9) of the *Provincial Land Tax Act*, being chapter 399 of the Revised Statutes of Ontario, 1980, as re-enacted by the Statutes of Ontario, 1982, chapter 18, section 7, is amended by striking out "Registrar of the Supreme Court of Ontario or the local registrar of the Supreme Court" in the fourth, fifth and sixth lines and inserting in lieu thereof "local registrar of the Ontario Court (General Division)".**

**(2) Subsection 11 (11) of the said Act, as enacted by the Statutes of Ontario, 1982, chapter 18, section 7, is amended by striking out "Registrar of the Supreme Court or the local registrar of the Supreme Court" in the first and second lines and inserting in lieu thereof "local registrar of the Ontario Court (General Division)".**

**34.—(1)** Clause 1 (1) (j) of the *Provincial Offences Act*, being chapter 400 of the Revised Statutes of Ontario, 1980, is amended by striking out “court” in the first line and inserting in lieu thereof “Chief Judge of the Ontario Court (Provincial Division)”.

(2) Subsection 31 (2) of the said Act is amended by striking out “chief judge of the provincial offences courts” in the third and fourth lines and inserting in lieu thereof “Chief Judge of the Ontario Court (Provincial Division)”.

(3) Subsection 31 (3) of the said Act is amended by striking out “chief judge of the provincial offences courts” in the fourth and fifth lines and inserting in lieu thereof “Chief Judge of the Ontario Court (Provincial Division)”.

(4) The said Act is amended by adding thereto the following section:

Contempt

**90a.—(1)** Except as otherwise provided by an Act, every person who commits contempt in the face of a justice of the peace presiding over the Ontario Court (Provincial Division) in a proceeding under this Act is on conviction liable to a fine of not more than \$1,000 or to imprisonment for a term of not more than thirty days, or to both.

Statement to  
offender

(2) Before a proceeding is taken for contempt under subsection (1), the justice of the peace shall inform the offender of the conduct complained of and the nature of the contempt and inform him or her of the right to show cause why he or she should not be punished.

Show cause

(3) A punishment for contempt in the face of the court shall not be imposed without giving the offender an opportunity to show cause why he or she should not be punished.

Adjournment  
for adjudication

(4) Except where, in the opinion of the justice of the peace, it is necessary to deal with the contempt immediately for the preservation of order and control in the courtroom, the justice of the peace shall adjourn the contempt proceeding to another day.

Adjudication  
by judge

(5) A contempt proceeding that is adjourned to another day under subsection (4) shall be heard and determined by the court presided over by a provincial judge.

Arrest for  
immediate  
adjudication

(6) Where the justice of the peace proceeds to deal with a contempt immediately and without adjournment under subsection (4), the justice of the peace may order the offender



arrested and detained in the courtroom for the purpose of the hearing and determination.

(7) Where the offender is appearing before the court as an agent who is not a barrister and solicitor entitled to practise in Ontario, the court may order that he or she be barred from acting as agent in the proceeding in addition to any other punishment to which he or she is liable. Barring agent  
in contempt

(8) An order of punishment for contempt under this section is appealable in the same manner as if it were a conviction in a proceeding commenced by certificate under Part I of this Act. Appeals

(9) This Act applies for the purpose of enforcing a punishment by way of a fine or imprisonment under this section. Enforcement

(5) Section 91m of the said Act, as enacted by the Statutes of Ontario, 1983, chapter 80, section 1, is amended by striking out "provincial court (criminal division)" in the sixth line and inserting in lieu thereof "Ontario Court (Provincial Division) presided over by a provincial judge".

(6) Clause 99 (2) (a) of the said Act is amended by striking out "provincial court (criminal division) of" in the second and third lines and inserting in lieu thereof "Ontario Court (Provincial Division) presided over by a provincial judge sitting in".

(7) Subsection 118 (1) of the said Act is amended by striking out "provincial court (criminal division) of" in the fifth line and inserting in lieu thereof "Ontario Court (Provincial Division) presided over by a provincial judge sitting in".

(8) Subsection 122 (1) of the said Act is repealed and the following substituted therefor:

(1) An appeal lies from the judgment of the Ontario Court (Provincial Division) in an appeal under section 118 to the Court of Appeal, with leave of a justice of appeal, on special grounds, upon any question of law alone. Appeal to  
Court of  
Appeal

(9) Section 123 of the said Act is repealed.

(10) Subsection 142 (1) of the said Act is amended by striking out "in the county or district in which the provincial offences court having jurisdiction in respect of the offence is situated" in the thirteenth, fourteenth and fifteenth lines.



**35.**—(1) Subsections 5 (3) and (4) of the *Regional Municipality of Durham Act*, being chapter 434 of the Revised Statutes of Ontario, 1980, are repealed.

(2) Subsection 133 (1) of the said Act is amended by striking out “county court within the Regional Area or a judge of the county court of a county or judicial district adjoining the Regional Area” in the second, third and fourth lines and inserting in lieu thereof “Ontario Court (General Division)”.

**36.**—(1) Subsections 5 (3), (4) and (6) of the *Regional Municipality of Haldimand-Norfolk Act*, being chapter 435 of the Revised Statutes of Ontario, 1980, are repealed.

(2) Subsection 116 (1) of the said Act is amended by striking out “county court within the Regional Area or a judge of the county court of a county or judicial district adjoining the Regional Area” in the second, third and fourth lines and inserting in lieu thereof “Ontario Court (General Division)”.

**37.**—(1) Subsections 5 (3) and (5) of the *Regional Municipality of Halton Act*, being chapter 436 of the Revised Statutes of Ontario, 1980, are repealed.

(2) Subsection 126 (1) of the said Act is amended by striking out “county court within the Regional Area or a judge of the county court of a county or judicial district adjoining the Regional Area” in the second, third and fourth lines and inserting in lieu thereof “Ontario Court (General Division)”.

**38.**—(1) Subsections 4 (3) and (5) of the *Regional Municipality of Hamilton-Wentworth Act*, being chapter 437 of the Revised Statutes of Ontario, 1980, are repealed.

(2) Subsection 138 (1) of the said Act is amended by striking out “county court within the Regional Area or a judge of the county court of a county or judicial district adjoining the Regional Area” in the second, third and fourth lines and inserting in lieu thereof “Ontario Court (General Division)”.

**39.**—(1) Subsections 4 (3) and (4) of the *Regional Municipality of Niagara Act*, being chapter 438 of the Revised Statutes of Ontario, 1980, are repealed.

(2) Subsection 165 (1) of the said Act is amended by striking out “either of the county courts within the Regional Area or a judge of the county court of a county adjoining the Regional Area” in the second, third and fourth lines and inserting in lieu thereof “the Ontario Court (General Division)”.

**40.**—(1) Subsection 2 (3) of the *Regional Municipality of Ottawa-Carleton Act*, being chapter 439 of the Revised Statutes of Ontario, 1980, is repealed.

(2) Subsection 168 (1) of the said Act is amended by striking out “county court of the Regional Area or a judge of the county court of a county adjoining the Regional Area” in the second, third and fourth lines and inserting in lieu thereof “Ontario Court (General Division)”.

**41.**—(1) Subsections 5 (3) and (5) of the *Regional Municipality of Peel Act*, being chapter 440 of the Revised Statutes of Ontario, 1980, are repealed.

(2) Subsection 121 (1) of the said Act is amended by striking out “county court within the Regional Area or a judge of the county court of a county or judicial district adjoining the Regional Area” in the second, third and fourth lines and inserting in lieu thereof “Ontario Court (General Division)”.

**42.**—(1) Subsection 4 (3) of the *Regional Municipality of Sudbury Act*, being chapter 441 of the Revised Statutes of Ontario, 1980, is repealed.

(2) Subsection 108 (1) of the said Act is amended by striking out “district court within the Regional Area or a judge of the district court of a district adjoining the Regional Area” in the second, third and fourth lines and inserting in lieu thereof “Ontario Court (General Division)”.

**43.**—(1) Subsections 4 (3) and (5) of the *Regional Municipality of Waterloo Act*, being chapter 442 of the Revised Statutes of Ontario, 1980, are repealed.

(2) Subsection 156 (1) of the said Act is amended by striking out “county court within the Regional Area or a judge of the county court of a county adjoining the Regional Area” in the second, third and fourth lines and inserting in lieu thereof “Ontario Court (General Division)”.

**44.**—(1) Subsection 4 (3) of the *Regional Municipality of York Act*, being chapter 443 of the Revised Statutes of Ontario, 1980, is repealed.

(2) Subsection 157 (1) of the said Act is amended by striking out “county court within the Regional Area or a judge of the county court of a county or judicial district adjoining the Regional Area” in the second, third and fourth lines and inserting in lieu thereof “Ontario Court (General Division)”.

**45.—**(1) Subsection 23 (2) of the *Retail Sales Tax Act*, being chapter 454 of the Revised Statutes of Ontario, 1980, is amended by striking out “Registrar of the Supreme Court or the local registrar of the Supreme Court” in the fourth and fifth lines and inserting in lieu thereof “local registrar of the Ontario Court (General Division)”.

(2) Subsection 25 (1) of the said Act is amended by striking out “Registrar of the Supreme Court or the local registrar of the Supreme Court” in the second and third lines and inserting in lieu thereof “local registrar of the Ontario Court (General Division)”.

**46.** The *Sheriffs Act*, being chapter 470 of the Revised Statutes of Ontario, 1980, as amended by the Statutes of Ontario, 1984, chapter 11, section 212 and 1989, chapter 24, section 2, is repealed.

**47.** Subsection 35 (1) of the *Statute Labour Act*, being chapter 482 of the Revised Statutes of Ontario, 1980, is amended by striking out “Provisional Judicial” in the fifteenth line and inserting in lieu thereof “Territorial”.

**48.—**(1) Sections 2, 4 and 5 of the *Surrogate Courts Act*, being chapter 491 of the Revised Statutes of Ontario, 1980, are repealed.

(2) Sections 6 and 7 of the said Act, as amended by the Statutes of Ontario, 1984, chapter 11, section 215, are repealed.

(3) Sections 8 and 9 of the said Act are repealed.

(4) Section 11 of the said Act, as amended by the Statutes of Ontario, 1982, chapter 10, section 1, is repealed.

(5) Section 12 of the said Act, as amended by the Statutes of Ontario, 1984, chapter 11, section 215, is repealed.

(6) Sections 14 and 15 of the said Act are repealed.

(7) Section 17 of the said Act is repealed and the following substituted therefor:

Depository  
for the wills  
of living  
persons

**17.** The office of the local registrar of the Ontario Court (General Division) is a depository for all wills of living persons given there for safekeeping, and the local registrar shall receive and keep those wills under such regulations as are prescribed by the rules of court.



(8) Section 18 of the said Act is amended by striking out “regulations as are prescribed by the surrogate court rules” in the fourth and fifth lines and inserting in lieu thereof “conditions as are prescribed by the rules of court”.

(9) Sections 21, 22 and 23 of the said Act are repealed.

(10) Section 26 of the said Act is repealed and the following substituted therefor:

**26.**—(1) An application for a grant of probate or letters of administration shall be made to the Ontario Court (General Division) and shall be filed in the office for the county or district in which the testator or intestate had at the time of death a fixed place of abode.

Grant of probate or administration, jurisdiction

(2) If the testator or intestate had no fixed place of abode in Ontario or resided out of Ontario at the time of death, the application shall be filed in the office for the county or district in which the testator or intestate had property at the time of death.

Where decedent had no abode in Ontario

(3) In other cases the application for probate or letters of administration may be filed in any office.

When application may be filed in any office

(11) Sections 27, 28 and 29 of the said Act are repealed.

(12) Subsection 30 (1) of the said Act is repealed and the following substituted therefor:

(1) The court may cause any question of fact arising in any proceeding to be tried by a jury.

Trial of questions of fact by a jury

(13) Section 32 of the said Act is repealed.

(14) Subsection 33 (1) of the said Act is repealed and the following substituted therefor:

(1) Any party or person taking part in a proceeding under this Act may appeal to the Divisional Court from an order, determination or judgment of the Ontario Court (General Division) if the value of the property affected by such order, determination or judgment exceeds \$200.

Right of appeal

(15) Subsections 33 (4), (5) and (6) of the said Act are repealed.

(16) Section 34 of the said Act is repealed.



(17) Section 44 of the said Act is amended by striking out “surrogate court” in the sixth line and inserting in lieu thereof “office of the Ontario Court (General Division)”.

(18) Section 45 of the said Act is repealed and the following substituted therefor:

Where  
application  
filed in more  
than one  
office

45. If it appears by the certificate of the Estate Registrar for Ontario that application for probate or administration has been filed in two or more court offices, the proceedings shall be stayed until, on motion, a judge of the Ontario Court (General Division) determines where the application will proceed.

(19) Section 60 of the said Act is amended by striking out “judge of the court for the time being, or in case of the separation of counties, to enure for the benefit of any judge of a surrogate court to be named by the Supreme Court for that purpose” in the fifth, sixth, seventh and eighth lines and inserting in lieu thereof “Accountant of the Ontario Court”.

(20) Subsection 74 (1) of the said Act is repealed.

(21) Subsection 74 (3) of the said Act is repealed and the following substituted therefor:

Powers of  
judge on  
passing  
accounts

(3) The judge, on passing the accounts of an executor, administrator or trustee under a will of which the trustee is an executor, has jurisdiction to enter into and make full inquiry and accounting of and concerning the whole property that the deceased was possessed of or entitled to, and its administration and disbursement.

(22) Subsection 74 (6) of the said Act is repealed.

(23) Section 78 of the said Act is repealed.

(24) Section 80 of the said Act, as re-enacted by the Statutes of Ontario, 1984, chapter 11, section 215, is repealed.

(25) The title to the *Surrogate Courts Act* is repealed and the following substituted therefor:

#### ESTATES ACT

49.—(1) Section 1 of the *Territorial Division Act*, being chapter 497 of the Revised Statutes of Ontario, 1980, as amended by the Statutes of Ontario, 1982, chapter 57, section 4, is further amended by striking out “5, 5a, 6, 7 and 8 for municipal and judicial purposes such counties, and for judicial

purposes such districts and metropolitan and regional areas, are respectively" in the third, fourth, fifth and sixth lines and inserting in lieu thereof "and 5, for municipal purposes such counties are".

(2) Paragraph 2 of section 1 of the said Act is amended by striking out the following sentences at the end thereof:

"The Indian Reserve at Cape Croker shall, for judicial purposes, be deemed part of the Township of Albemarle.

"The Indian Reserve at Chief's Point and the Saugeen Indian Reserve north of the mouth of the Saugeen River shall, for judicial purposes, be deemed part of the Township of Amabel".

(3) Paragraph 42 of the said section 1 is amended by striking out "The Territorial District of Algoma forms the Provisional Judicial District of Algoma" in the seventh and eighth lines from the end thereof.

(4) Paragraph 43 of the said section 1 is amended by striking out "The Territorial District of Cochrane forms the Provisional Judicial District of Cochrane" at the end thereof.

(5) Paragraph 44 of the said section 1 is amended by striking out "The Territorial District of Kenora forms the Provisional Judicial District of Kenora" at the end thereof.

(6) Paragraph 45 of the said section 1 is amended by striking out "The Territorial District of Manitoulin forms the Provisional Judicial District of Manitoulin" at the end thereof.

(7) Paragraph 46 of the said section 1 is amended by striking out "The District Municipality of Muskoka forms the Provisional Judicial District of Muskoka" at the end thereof.

(8) Paragraph 47 of the said section 1 is amended by striking out "The Territorial District of Nipissing forms the Provisional Judicial District of Nipissing" at the end thereof.

(9) Paragraph 48 of the said section 1 is amended by striking out "The Territorial District of Parry Sound forms the Provisional Judicial District of Parry Sound" at the end thereof.

(10) Paragraph 49 of the said section 1 is amended by striking out "The Territorial District of Rainy River forms the Provisional Judicial District of Rainy River" at the end thereof.

(11) Paragraph 50 of the said section 1, as amended by the Statutes of Ontario, 1986, chapter 52, section 1, is further amended by striking out "The Territorial District of Sudbury forms the Provisional Judicial District of Sudbury" at the end thereof.

(12) Paragraph 51 of the said section 1 is amended by striking out "The Territorial District of Thunder Bay forms the Provisional Judicial District of Thunder Bay" at the end thereof.

(13) Paragraph 52 of the said section 1 is amended by striking out "The Territorial District of Timiskaming forms the Provisional Judicial District of Timiskaming" at the end thereof.

(14) Subsection 4 (1) of the said Act is amended by striking out "judicial" in the first line.

(15) Subsection 4 (2) of the said Act is amended by striking out "courts" in the fourth line.

(16) Section 5 of the said Act is repealed and the following substituted therefor:

Cities and  
towns

**5.** For municipal purposes, cities, towns and other municipalities withdrawn from the jurisdiction of a county do not form part of the counties in which they are respectively situate.

(17) Section 5a of the said Act, as enacted by the Statutes of Ontario, 1982, chapter 57, section 4, is repealed.

(18) Sections 6, 7 and 8 of the said Act are repealed.

(19) Clause 15 (b) of the said Act is amended by striking out "or provisional judicial district" in the first and second lines.

**50.** Subsection 13 (2) of the *Tobacco Tax Act*, being chapter 502 of the Revised Statutes of Ontario, 1980, is amended by striking out "Registrar of the Supreme Court or with the local registrar of the Supreme Court" in the fourth and fifth lines and inserting in lieu thereof "local registrar of the Ontario Court (General Division)".

**51.** Subsection 27 (1) of the *Vital Statistics Act*, being chapter 524 of the Revised Statutes of Ontario, 1980, is amended by striking out "The Registrar of the Supreme Court and every local registrar of the Supreme Court" in the first and second



lines and inserting in lieu thereof "Every local registrar of the Ontario Court (General Division)".

**52.**—(1) Subsection 10 (1) of the *Woodmen's Lien for Wages Act*, being chapter 537 of the Revised Statutes of Ontario, 1980, is amended by striking out "\$1,000" in the third line and in the sixth line and inserting in lieu thereof in each instance "the monetary jurisdiction of the Small Claims Court".

(2) Section 16 of the said Act is amended by striking out "\$1,000" in the first line and inserting in lieu thereof "the monetary jurisdiction of the Small Claims Court".

(3) Subsection 17 (1) of the said Act is amended by striking out "\$1,000" in the first line and inserting in lieu thereof "the monetary jurisdiction of the Small Claims Court".

**53.** Section 116 of the *Workers' Compensation Act*, being chapter 539 of the Revised Statutes of Ontario, 1980, is amended by striking out "\$1,000" in the ninth line and inserting in lieu thereof "the monetary jurisdiction of the Small Claims Court".

**54.** This Act comes into force on a day to be named by proclamation of the Lieutenant Governor. Commence-  
ment

**55.** The short title of this Act is the *Court Reform Statute Law Amendment Act, 1989*. Short title









# Bill 3

## **An Act to amend certain Statutes of Ontario Consequent upon Amendments to the Courts of Justice Act, 1984**

The Hon. I. Scott  
*Attorney General*

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*1st Reading*      May 1st, 1989

*2nd Reading*      June 14th, 1989

*3rd Reading*

*Royal Assent*

*(Reprinted as amended by the Committee of the Whole House)*

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#### EXPLANATORY NOTE

The Bill repeals the *Sheriffs Act* and makes amendments to 52 other statutes. The amendments are required as a result of the amendments set out in the *Courts of Justice Amendment Act, 1989* changing the structure and administration of the courts.

## Bill 3

1989

**An Act to amend certain Statutes of Ontario  
Consequent upon Amendments to the  
Courts of Justice Act, 1984**

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

**1.—**(1) Subsection 23 (8) of the *Cemeteries Act*, being chapter 59 of the Revised Statutes of Ontario, 1980, is amended by striking out “\$200 or less” in the third line and inserting in lieu thereof “within the monetary jurisdiction of the Small Claims Court”.

(2) Subsection 29 (3) of the said Act is amended by striking out “the judge of the surrogate court of the Judicial District of York” in the fourth and fifth lines and inserting in lieu thereof “a judge of the Ontario Court (General Division) sitting in The Municipality of Metropolitan Toronto”.

**2.** Subsection 63 (1) of the *Child and Family Services Act*, 1984, being chapter 55, is repealed and the following substituted therefor:

(1) The Minister may appoint a judge of the Ontario Court of Justice or the Unified Family Court to investigate a matter relating to a child in a society’s care or the proper administration of this Part, and a judge who is appointed shall conduct the investigation and make a written report to the Minister.

Investigation  
by judge

**3.—**(1) Section 3 of the *Children’s Law Reform Act*, being chapter 68 of the Revised Statutes of Ontario, 1980, is amended by striking out “the Judicial District” in the second and third lines and inserting in lieu thereof “The Regional Municipality”.

(2) Section 73 of the said Act, as enacted by the Statutes of Ontario, 1982, chapter 20, section 1, is repealed and the following substituted therefor:

Order made  
under  
R.S.O. 1980,  
c. 292

**73.**—(1) An application to vary an order made by a surrogate court under the *Minors Act* shall be made to the Ontario Court (General Division).

Idem  
1984, c. 11

(2) Section 160 of the *Courts of Justice Act, 1984* does not apply to subsection (1) to deem the reference to a surrogate court to be a reference to the Ontario Court (General Division).

**4.**—(1) Section 51 of the *Construction Lien Act, 1983*, being chapter 6, as amended by the *Statutes of Ontario, 1984*, chapter 11, section 165, is repealed.

(2) Section 52 of the said Act, as amended by the *Statutes of Ontario, 1984*, chapter 11, section 165, is repealed.

(3) Section 53 of the said Act, as amended by the *Statutes of Ontario, 1984*, chapter 11, section 165, is repealed and the following substituted therefor:

Court to  
dispose  
completely of  
action

**53.** The court, whether the action is being tried by a judge or by a master on a reference,

- (a) shall try the action, including any set-off, cross-claim, counterclaim and, subject to section 58, third party claim, and all questions that arise therein or that are necessary to be tried in order to dispose completely of the action and to adjust the rights and liabilities of the persons appearing before it or upon whom notice of trial has been served; and
- (b) shall take all accounts, make all inquiries, give all directions and do all things necessary to dispose finally of the action and all matters, questions and accounts arising therein or at the trial and to adjust the rights and liabilities of, and give all necessary relief to, all parties to the action.

(4) Section 54 of the said Act, as amended by the *Statutes of Ontario, 1984*, chapter 11, section 165, is repealed and the following substituted therefor:

Where  
exclusive  
jurisdiction  
not acquired

**54.** A judge or master does not acquire exclusive jurisdiction over the trial of an action or reference by reason only of appointing the time and place for the trial of the action or reference, or for holding a settlement meeting.

(5) Subsection 60 (1) of the said Act, as amended by the *Statutes of Ontario, 1984*, chapter 11, section 165, is repealed and the following substituted therefor:

(1) On motion made after the delivery of all statements of defence, or the statements of defence to all crossclaims, counterclaims or third party claims, if any, or the time for their delivery has expired, a judge may refer the whole action for trial to a master assigned to the county or district in which the premises or part of the premises are situate.

Reference to master

(1a) A master shall not hear or dispose of a motion made under subsection (1).

Idem

**(6) Subsection 60 (2) of the said Act, as amended by the Statutes of Ontario, 1984, chapter 11, section 165, is repealed and the following substituted therefor:**

(2) At the trial, a judge may direct a reference to a master assigned to the county or district in which the premises or part of the premises are situate.

Idem

(2a) A master to whom a reference has been directed has all the jurisdiction, powers and authority of the court to try and completely dispose of the action and all matters and questions arising in connection with the action, including the giving of leave to amend any pleading and the giving of directions to a receiver or trustee appointed by the court.

Powers of master on reference

**(7) Subsection 60 (3) of the said Act, as amended by the Statutes of Ontario, 1984, chapter 11, section 165, is repealed and the following substituted therefor:**

(3) Where under subsection (1) the action has been referred to a master for trial, any person who subsequently becomes a party to the action may, within seven days after becoming a party to the action, make a motion to a judge of the court that directed the reference to set aside the judgment directing the reference.

Application to set aside order of reference

**(8) Clause 64 (1) (b) of the said Act, as amended by the Statutes of Ontario, 1984, chapter 11, section 165, is repealed and the following substituted therefor:**

(b) in a report in the prescribed form, where the trial is conducted by a master on a reference.

**(9) Subsection 64 (3) of the said Act, as amended by the Statutes of Ontario, 1984, chapter 11, section 165, is repealed and the following substituted therefor:**

(3) The report of a master shall be deemed to be confirmed at the expiration of the fifteen-day period next following the date that the notice of filing was given, unless notice of a

When report deemed confirmed



motion to oppose confirmation of the report is served within that time.

**5.—**(1) Subsection 48 (3) of the *Conveyancing and Law of Property Act*, being chapter 90 of the Revised Statutes of Ontario, 1980, as amended by the Statutes of Ontario, 1986, chapter 64, section 6, is further amended by striking out “the office of the Registrar of the Supreme Court at Osgoode Hall” in the fifth and sixth lines and inserting in lieu thereof “an office of the Ontario Court (General Division)”.

(2) Section 49 of the said Act, as amended by the Statutes of Ontario, 1986, chapter 64, section 6, is further amended by striking out “the office of the Registrar of the Supreme Court at Osgoode Hall” in the thirteenth and fourteenth lines and inserting in lieu thereof “an office of the Ontario Court (General Division)”.

**6.** Subsection 6 (1) of the *Coroners Act*, being chapter 93 of the Revised Statutes of Ontario, 1980, is amended by striking out “the Chief Judge of the County and District Courts” in the second line and inserting in lieu thereof “a judge of the Ontario Court (General Division) designated by the Chief Justice of the Ontario Court”.

**7.—**(1) Subsection 78 (2) of the *Corporations Tax Act*, being chapter 97 of the Revised Statutes of Ontario, 1980, is amended by striking out “Registrar of the Supreme Court or the local registrar of the Supreme Court” in the fourth and fifth lines and inserting in lieu thereof “local registrar of the Ontario Court (General Division)”.

(2) Subsection 80 (1) of the said Act is amended by striking out “Registrar of the Supreme Court or the local registrar of the Supreme Court” in the second and third lines and inserting in lieu thereof “local registrar of the Ontario Court (General Division)”.

**8.—**(1) Clause 3 (2) (a) of the *County of Haliburton Act*, 1982, being chapter 57, is repealed.

(2) Subsection 4 (4) of the said Act is repealed.

**9.—**(1) Section 3 of the *Creditors' Relief Act*, being chapter 103 of the Revised Statutes of Ontario, 1980, as re-enacted by the Statutes of Ontario, 1985, chapter 1, section 1, is amended by adding thereto the following subsection:

(2) Subsection (1) does not affect the priority of a creditor by execution or garnishment issued by the Small Claims Court. Exception

**(2) Subsection 22 (2) of the said Act is repealed and the following substituted therefor:**

(2) Such costs shall be ascertained in accordance with the tariffs of costs under the rules of court applicable to, Scale of costs

(a) the Small Claims Court, if the claim is within the monetary jurisdiction of that court; or

(b) the Ontario Court (General Division), in any other case.

**10.—(1) Subsection 3 (1) of the *Crown Attorneys Act*, being chapter 107 of the Revised Statutes of Ontario, 1980, is amended by striking out “the Judicial District of York” in the third and fourth lines and in the sixth line and inserting in lieu thereof in each instance “The Municipality of Metropolitan Toronto”.**

(2) Subsection 3 (2) of the said Act is amended by striking out “the Judicial District of York” wherever it occurs and inserting in lieu thereof in each instance “The Municipality of Metropolitan Toronto”.

(3) Subclause 12 (b) (ii) of the said Act, as re-enacted by the Statutes of Ontario, 1984, chapter 11, section 170, is repealed.

**11.—(1) Subsection 4 (3) of the *District Municipality of Muskoka Act*, being chapter 121 of the Revised Statutes of Ontario, 1980, is repealed.**

(2) Subsection 112 (1) of the said Act is amended by striking out “district court within the District Area or a judge of the county court or district court of a county or district adjoining the District Area” in the second, third and fourth lines and inserting in lieu thereof “Ontario Court (General Division)”.

**12.—(1) Section 69 of the *Election Act, 1984*, being chapter 54, is repealed and the following substituted therefor:**

**69.** In this section and in sections 70 to 80, unless otherwise stated, “judge” means a judge of the Ontario Court (Provincial Division). Definition

(2) Subsection 70 (2) of the said Act is amended by striking out “the clerk of the county or district court” in the third line

and inserting in lieu thereof "a clerk of the Ontario Court (Provincial Division) of the county or district in which the electoral district or any part of it is situate".

(3) Subsection 72 (2) of the said Act is amended by striking out "of the county or district court" in the first and second lines.

(4) Section 78 of the said Act is amended by striking out "court of the county or judicial district" in the fourth and fifth lines and inserting in lieu thereof "Ontario Court (Provincial Division)".

(5) Subsection 79 (3) of the said Act is amended by striking out "Registrar of the Supreme Court" in the fifth and sixth lines and inserting in lieu thereof "local registrar of the Ontario Court (General Division) of the county or district in which the electoral district or any part of it is situate" and by striking out "Registrar" in the eighth line and inserting in lieu thereof "local registrar".

(6) Subsections 79 (4) and (5) of the said Act are amended by striking out "Registrar" wherever it occurs and inserting in lieu thereof in each instance "local registrar".

(7) Subsection 85 (5) of the said Act is amended by striking out "Registrar of the Supreme Court" in the second and third lines and inserting in lieu thereof "local registrar of the Ontario Court (General Division) of the county or district in which the electoral district or any part of it is situate" and by striking out "Registrar" in the fourth line and inserting in lieu thereof "local registrar".

(8) Subsections 98 (5) and (6) of the said Act are repealed and the following substituted therefor:

Local  
registrar to  
notify  
C.E.O.

(5) When an action is commenced by a person other than the Chief Election Officer, the local registrar of the Ontario Court (General Division) shall notify the Chief Election Officer by registered mail.

(9) Subsection 103 (3) of the said Act is amended by striking out "Registrar of the Supreme Court" in the second line and inserting in lieu thereof "local registrar of the Ontario Court (General Division)".

(10) Subsection 105 (1) of the said Act is amended by striking out "Registrar of the Supreme Court" in the sixth and seventh lines and inserting in lieu thereof "local registrar of the Ontario Court (General Division)".



(11) Subsection 106 (7) of the said Act is amended by striking out "Registrar of the Supreme Court" in the first line and inserting in lieu thereof "local registrar of the Ontario Court (General Division)".

(12) Subsection 107 (2) of the said Act is amended by striking out "Registrar" in the second line and inserting in lieu thereof "local registrar".

(13) Subsection 109 (2) of the said Act is repealed and the following substituted therefor:

(2) The appeal shall be heard as speedily as practicable.

Appeal to be  
heard  
speedily

13. Section 49 of the *Evidence Act*, being chapter 145 of the Revised Statutes of Ontario, 1980, is amended by striking out "surrogate court granting the same, or under the seal of the Supreme Court, where the probate or letters of administration were granted by the former court of probate for Upper Canada" in the fifth, sixth, seventh and eighth lines and inserting in lieu thereof "court that granted it or under the seal of the Ontario Court (General Division)".

14. Subsections 24 (2) and (3) of the *Fraudulent Debtors Arrest Act*, being chapter 177 of the Revised Statutes of Ontario, 1980, are repealed.

15.—(1) Subsection 14 (6) of the *Fuel Tax Act, 1981*, being chapter 59, is amended by striking out "Registrar of the Supreme Court or the local registrar of the Supreme Court" in the third and fourth lines and inserting in lieu thereof "local registrar of the Ontario Court (General Division)".

(2) Subsection 14 (10) of the said Act is amended by striking out "Registrar of the Supreme Court or the local registrar of the Supreme Court" in the second and third lines and inserting in lieu thereof "local registrar of the Ontario Court (General Division)".

16. Subsection 14 (2) of the *Gasoline Tax Act*, being chapter 186 of the Revised Statutes of Ontario, 1980, is amended by striking out "Registrar of the Supreme Court or with the local registrar of the Supreme Court" in the fourth and fifth lines and inserting in lieu thereof "local registrar of the Ontario Court (General Division)".

17.—(1) Clause 20 (3) (a) of the *Income Tax Act*, being chapter 213 of the Revised Statutes of Ontario, 1980, is amended by striking out "Registrar of the Supreme Court or the local registrar of the court" in the fifth, sixth and seventh



lines and inserting in lieu thereof "local registrar of the Ontario Court (General Division)".

(2) Subsection 21 (3) of the said Act is amended by striking out "Registrar of the Supreme Court or the local registrar of the court" in the fourth and fifth lines and inserting in lieu thereof "local registrar of the Ontario Court (General Division)".

(3) Subsection 21 (6) of the said Act is amended by striking out "Registrar of the Supreme Court or the local registrar of the court, as the case may be" in the first, second and third lines and inserting in lieu thereof "local registrar of the Ontario Court (General Division)".

**18.** Subsection 19 (2) of the *Industrial Standards Act*, being chapter 216 of the Revised Statutes of Ontario, 1980, is amended by striking out "\$1,000" in the fifth line and inserting in lieu thereof "the monetary jurisdiction of the Small Claims Court".

**19.** Section 61 of the *Insurance Act*, being chapter 218 of the Revised Statutes of Ontario, 1980, is amended by striking out "the Master of the Supreme Court" in the fourth line and inserting in lieu thereof "a referee in a proceeding in the Ontario Court (General Division)".

**20.—(1)** Clause 27 (i) of the *Interpretation Act*, being chapter 219 of the Revised Statutes of Ontario, 1980, is repealed and the following substituted therefor:

- (i) where the time limited for a proceeding or for the doing of any thing in a court office, a land registry office or a sheriff's office expires or falls on a day that is prescribed as a holiday for that office, the time so limited extends to and the thing may be done on the day next following that is not a holiday.

(2) Paragraphs 9 and 35 of section 30 of the said Act are repealed.

**21.—(1)** Subsection 5 (3) of the *Juries Act*, being chapter 226 of the Revised Statutes of Ontario, 1980, is amended by adding "and" at the end of clause (a) and by striking out clauses (b) and (c) and inserting in lieu thereof:

- (b) to the local registrar of the Ontario Court (General Division), a copy of the determination for the number of jurors under clause (1) (a).

(2) Subsection 12 (1) of the said Act, as amended by the Statutes of Ontario, 1984, chapter 11, section 189, is repealed and the following substituted therefor:

(1) A judge of the Ontario Court (General Division) may issue precepts in the form prescribed by the regulations to the sheriff for the return of such number of jurors as the sheriff has determined as the number to be drafted and returned or such greater or lesser number as in his or her opinion is required.

Issuance of  
precepts

(3) Subsection 12 (1a) of the said Act, as enacted by the Statutes of Ontario, 1984, chapter 11, section 189, is repealed.

(4) Subsection 12 (2) of the said Act is repealed.

(5) Subsection 39 (2) of the said Act is amended by striking out "Registrar or the local registrar of the Supreme Court, as the case may be" in the third and fourth lines and inserting in lieu thereof "local registrar of the Ontario Court (General Division)".

**22.—**(1) Clauses 9 (1) (a), (b) and (c) of the *Justices of the Peace Act, 1989*, being chapter 46, are repealed and the following substituted therefor:

(a) the Chief Judge of the Ontario Court (Provincial Division) who shall preside over the Review Council;

(b) the Co-ordinator;

(c) the regional senior judge of the Ontario Court (Provincial Division) in the region in which the matter being considered by the Council arises.

. . . . .

a) le juge en chef de la Cour de l'Ontario (Division provinciale), qui préside le Conseil;

b) le coordonnateur;

c) le juge principal régional de la Cour de l'Ontario (Division provinciale) de la région où se présente l'affaire dont traite le Conseil.

(2) Subsection 14 (1) of the said Act is repealed and the following substituted therefor:

Co-ordinator  
to supervise  
justices,  
assign duties

(1) The Co-ordinator has general supervision and direction over sittings of justices of the peace and the assignment of their duties, subject to the direction of the Chief Judge of the Ontario Court (Provincial Division).

Surveillance,  
etc., par le  
coordon-  
nateur

(1) Le coordonnateur est chargé de l'administration et de la surveillance des sessions des juges de paix et de l'assignation de leurs fonctions, sous réserve de la direction du juge en chef de la Cour de l'Ontario (Division provinciale).

(3) Subsection 14 (6) of the said Act is amended by striking out "a" in the fourth line of the English version and inserting in lieu thereof "the" and by striking out "d'un" in the fifth line of the French version and inserting in lieu thereof "du".

**23.** Subsection 12 (2) of the *Land Transfer Tax Act*, being chapter 231 of the Revised Statutes of Ontario, 1980, is amended by striking out "Registrar of the Supreme Court or with the Local Registrar of the Supreme Court" in the fourth and fifth lines and inserting in lieu thereof "local registrar of the Ontario Court (General Division)".

**24.—**(1) Sections 69 and 70 of the *Landlord and Tenant Act*, being chapter 232 of the Revised Statutes of Ontario, 1980, are repealed.

(2) Section 74 of the said Act is repealed and the following substituted therefor:

Scale of costs

**74.** The costs of the proceeding before the judge shall be on the Small Claims Court scale if the amount claimed by the landlord does not exceed the monetary jurisdiction of the Small Claims Court.

**25.** Section 49 of the *Law Society Act*, being chapter 233 of the Revised Statutes of Ontario, 1980, is amended by striking out "Registrar of the Supreme Court" in the fourth line and inserting in lieu thereof "local registrar of the Ontario Court (General Division) at Toronto".

**26.—**(1) Subsection 17 (3) of the *Legislative Assembly Act*, being chapter 235 of the Revised Statutes of Ontario, 1980, is repealed and the following substituted therefor:

Transmission  
of copy of  
disclaimer

(3) The Clerk of the Assembly shall, on receiving a disclaimer, forthwith send a copy of it to the local registrar of the Ontario Court (General Division) for the county or district in



which is situate the electoral district or any part of the electoral district for which the member so disclaiming was elected.

(2) Subsection 47 (2) of the said Act is amended by striking out “the Judicial District of York” in the second and third lines and inserting in lieu thereof “The Municipality of Metropolitan Toronto”.

27. Subsection 13 (4) of the *Libel and Slander Act*, being chapter 237 of the Revised Statutes of Ontario, 1980, is repealed and the following substituted therefor:

(4) An order made under this section is final and is not subject to appeal.

Order of  
judge  
respecting  
security final

28.—(1) Subsection 10 (1) of the *Master and Servant Act*, being chapter 257 of the Revised Statutes of Ontario, 1980, is amended by striking out “small claims court of the division in which the cause of action arose or in which the party or parties complained against, or one of them, resided at the time of the making of the complaint, or to the small claims court held in the division in which the party or parties complained against or one of them carried on business” in the fourth, fifth, sixth, seventh, eighth and ninth lines and inserting in lieu thereof “Ontario Court (General Division)”.

(2) Section 11 of the said Act is repealed.

29. Subsection 102 (1) of the *Municipal Act*, being chapter 302 of the Revised Statutes of Ontario, 1980, is amended by striking out “county or district court of the county or district in which the municipality is situate, or a judge of the county or district court of a county or district adjoining the county or district in which the municipality is situate” in the second, third, fourth, fifth and sixth lines and inserting in lieu thereof “Ontario Court (General Division)”.

30.—(1) Subsection 87 (1) of the *Municipal Elections Act*, being chapter 308 of the Revised Statutes of Ontario, 1980, as re-enacted by the Statutes of Ontario, 1988, chapter 33, section 9, is amended by striking out “District Court of” in the ninth line and inserting in lieu thereof “Ontario Court (Provincial Division) sitting in”.

(2) Subsection 87 (4) of the said Act, as enacted by the Statutes of Ontario, 1988, chapter 33, section 9, is amended by striking out “the local registrar of the District Court” in the third line and inserting in lieu thereof “a clerk of the Ontario Court (Provincial Division) of the county or district in which the electoral district or any part of it is situate”.



(3) Subsection 88c (1) of the said Act, as enacted by the Statutes of Ontario, 1988, chapter 33, section 9, is amended by striking out "District Court" in the fourth line and inserting in lieu thereof "Ontario Court (Provincial Division)".

(4) Subsection 88c (2) of the said Act, as enacted by the Statutes of Ontario, 1988, chapter 33, section 9, is amended by striking out "District Court" in the fourth line and inserting in lieu thereof "Ontario Court (Provincial Division)".

(5) Section 88j of the said Act, as enacted by the Statutes of Ontario, 1988, chapter 33, section 9, is repealed and the following substituted therefor:

Appeal from  
decision of  
provincial  
judge or  
recount  
officer

**88j.**—(1) Any party may appeal to the Ontario Court (General Division) from the decision of the provincial judge on the application or of the recount officer on the recount, as the case may be, by giving written notice not more than five days following the completion of the hearing or the recount to the other parties concerned and to the provincial judge or the recount officer and the notice may limit the appeal to specified disputed ballots.

Service of  
notice

(2) The notice shall be served upon the other parties personally or upon the solicitor who acted for the party or in the manner that a judge of the Ontario Court (General Division) may direct.

Documents  
to be  
forwarded

(3) The provincial judge or recount officer shall forward to the local registrar of the Ontario Court (General Division) by registered mail,

- (a) the notice of appeal;
- (b) a certificate showing the findings of the provincial judge or recount officer on the ballots or statements in dispute;
- (c) if the appeal is limited to specified disputed ballots, the ballots or statements of the vote that are the subject of the appeal in the envelopes described in subsection 88c (7) and section 88d; and
- (d) if the appeal is not limited, all of the ballots in the envelopes referred to in clause 88c (8) (b) or 88e (1) (b).

Certificate to  
be issued  
after appeal

(4) The provincial judge or recount officer shall await the result of the appeal before preparing the certificate under subsection 88c (8) or 88e (2).

(5) The provincial judge or recount officer shall, upon request, allow each party to make a copy of the order or certificate, as the case may be, before it is forwarded to the local registrar.

Copy of  
certificate

(6) On receipt of the ballots, notice and statement, the local registrar shall immediately fix a time for hearing the appeal and shall notify the parties or their solicitors of the time so fixed.

Appointment  
for hearing

(7) One judge of the Ontario Court (General Division) shall determine the objection pertaining to, or count again, the ballots or such of them as are the subject of appeal, or review the re-addition, as the case may be, and shall immediately certify in writing the decision of the court to the provincial judge or to the recount officer.

Determina-  
tion by  
General  
Division

(8) The provincial judge or recount officer, in compliance with the decision of the Ontario Court (General Division), shall certify the result without delay.

Certificate to  
reflect  
decision

**31.** Subsection 252 (1) of the *Municipality of Metropolitan Toronto Act*, being chapter 314 of the Revised Statutes of Ontario, 1980, is amended by striking out "county court of the Judicial District of York, or a judge of the county court of a judicial district adjoining the Judicial District of York" in the second, third and fourth lines and inserting in lieu thereof "Ontario Court (General Division)".

**32.** Subsection 121 (1) of the *County of Oxford Act*, being chapter 365 of the Revised Statutes of Ontario, 1980, is amended by striking out "county court within the County or a judge of the county court of a county or judicial district adjoining the County" in the second, third and fourth lines and inserting in lieu thereof "Ontario Court (General Division)".

**33.—(1)** Subsection 11 (9) of the *Provincial Land Tax Act*, being chapter 399 of the Revised Statutes of Ontario, 1980, as re-enacted by the Statutes of Ontario, 1982, chapter 18, section 7, is amended by striking out "Registrar of the Supreme Court of Ontario or the local registrar of the Supreme Court" in the fourth, fifth and sixth lines and inserting in lieu thereof "local registrar of the Ontario Court (General Division)".

(2) Subsection 11 (11) of the said Act, as enacted by the Statutes of Ontario, 1982, chapter 18, section 7, is amended by striking out "Registrar of the Supreme Court or the local registrar of the Supreme Court" in the first and second lines and inserting in lieu thereof "local registrar of the Ontario Court (General Division)".

**34.—(1) Clause 1 (1) (j) of the *Provincial Offences Act*, being chapter 400 of the Revised Statutes of Ontario, 1980, is amended by striking out “court” in the first line and inserting in lieu thereof “Chief Judge of the Ontario Court (Provincial Division)”.**

**(2) Subsection 31 (2) of the said Act is amended by striking out “chief judge of the provincial offences courts” in the third and fourth lines and inserting in lieu thereof “Chief Judge of the Ontario Court (Provincial Division)”.**

**(3) Subsection 31 (3) of the said Act is amended by striking out “chief judge of the provincial offences courts” in the fourth and fifth lines and inserting in lieu thereof “Chief Judge of the Ontario Court (Provincial Division)”.**

**(4) The said Act is amended by adding thereto the following section:**

Contempt

**90a.—(1) Except as otherwise provided by an Act, every person who commits contempt in the face of a justice of the peace presiding over the Ontario Court (Provincial Division) in a proceeding under this Act is on conviction liable to a fine of not more than \$1,000 or to imprisonment for a term of not more than thirty days, or to both.**

Statement to  
offender

**(2) Before a proceeding is taken for contempt under subsection (1), the justice of the peace shall inform the offender of the conduct complained of and the nature of the contempt and inform him or her of the right to show cause why he or she should not be punished.**

Show cause

**(3) A punishment for contempt in the face of the court shall not be imposed without giving the offender an opportunity to show cause why he or she should not be punished.**

Adjournment  
for adjudi-  
cation

**(4) Except where, in the opinion of the justice of the peace, it is necessary to deal with the contempt immediately for the preservation of order and control in the courtroom, the justice of the peace shall adjourn the contempt proceeding to another day.**

Adjudication  
by judge

**(5) A contempt proceeding that is adjourned to another day under subsection (4) shall be heard and determined by the court presided over by a provincial judge.**

Arrest for  
immediate  
adjudication

**(6) Where the justice of the peace proceeds to deal with a contempt immediately and without adjournment under subsection (4), the justice of the peace may order the offender**



arrested and detained in the courtroom for the purpose of the hearing and determination.

(7) Where the offender is appearing before the court as an agent who is not a barrister and solicitor entitled to practise in Ontario, the court may order that he or she be barred from acting as agent in the proceeding in addition to any other punishment to which he or she is liable. Barring agent  
in contempt

(8) An order of punishment for contempt under this section is appealable in the same manner as if it were a conviction in a proceeding commenced by certificate under Part I of this Act. Appeals

(9) This Act applies for the purpose of enforcing a punishment by way of a fine or imprisonment under this section. Enforcement

(5) Section 91m of the said Act, as enacted by the Statutes of Ontario, 1983, chapter 80, section 1, is amended by striking out “provincial court (criminal division)” in the sixth line and inserting in lieu thereof “Ontario Court (Provincial Division) presided over by a provincial judge”.

(6) Clause 99 (2) (a) of the said Act is amended by striking out “provincial court (criminal division) of” in the second and third lines and inserting in lieu thereof “Ontario Court (Provincial Division) presided over by a provincial judge sitting in”.

(7) Subsection 118 (1) of the said Act is amended by striking out “provincial court (criminal division) of” in the fifth line and inserting in lieu thereof “Ontario Court (Provincial Division) presided over by a provincial judge sitting in”.

(8) Subsection 122 (1) of the said Act is repealed and the following substituted therefor:

(1) An appeal lies from the judgment of the Ontario Court (Provincial Division) in an appeal under section 118 to the Court of Appeal, with leave of a justice of appeal, on special grounds, upon any question of law alone. Appeal to  
Court of  
Appeal

(9) Section 123 of the said Act is repealed.

(10) Subsection 142 (1) of the said Act is amended by striking out “in the county or district in which the provincial offences court having jurisdiction in respect of the offence is situated” in the thirteenth, fourteenth and fifteenth lines.



**35.—**(1) Subsections 5 (3) and (4) of the *Regional Municipality of Durham Act*, being chapter 434 of the Revised Statutes of Ontario, 1980, are repealed.

(2) Subsection 133 (1) of the said Act is amended by striking out “county court within the Regional Area or a judge of the county court of a county or judicial district adjoining the Regional Area” in the second, third and fourth lines and inserting in lieu thereof “Ontario Court (General Division)”.

**36.—**(1) Subsections 5 (3), (4) and (6) of the *Regional Municipality of Haldimand-Norfolk Act*, being chapter 435 of the Revised Statutes of Ontario, 1980, are repealed.

(2) Subsection 116 (1) of the said Act is amended by striking out “county court within the Regional Area or a judge of the county court of a county or judicial district adjoining the Regional Area” in the second, third and fourth lines and inserting in lieu thereof “Ontario Court (General Division)”.

**37.—**(1) Subsections 5 (3) and (5) of the *Regional Municipality of Halton Act*, being chapter 436 of the Revised Statutes of Ontario, 1980, are repealed.

(2) Subsection 126 (1) of the said Act is amended by striking out “county court within the Regional Area or a judge of the county court of a county or judicial district adjoining the Regional Area” in the second, third and fourth lines and inserting in lieu thereof “Ontario Court (General Division)”.

**38.—**(1) Subsections 4 (3) and (5) of the *Regional Municipality of Hamilton-Wentworth Act*, being chapter 437 of the Revised Statutes of Ontario, 1980, are repealed.

(2) Subsection 138 (1) of the said Act is amended by striking out “county court within the Regional Area or a judge of the county court of a county or judicial district adjoining the Regional Area” in the second, third and fourth lines and inserting in lieu thereof “Ontario Court (General Division)”.

**39.—**(1) Subsections 4 (3) and (4) of the *Regional Municipality of Niagara Act*, being chapter 438 of the Revised Statutes of Ontario, 1980, are repealed.

(2) Subsection 165 (1) of the said Act is amended by striking out “either of the county courts within the Regional Area or a judge of the county court of a county adjoining the Regional Area” in the second, third and fourth lines and inserting in lieu thereof “the Ontario Court (General Division)”.

**40.**—(1) Subsection 2 (3) of the *Regional Municipality of Ottawa-Carleton Act*, being chapter 439 of the Revised Statutes of Ontario, 1980, is repealed.

(2) Subsection 168 (1) of the said Act is amended by striking out “county court of the Regional Area or a judge of the county court of a county adjoining the Regional Area” in the second, third and fourth lines and inserting in lieu thereof “Ontario Court (General Division)”.

**41.**—(1) Subsections 5 (3) and (5) of the *Regional Municipality of Peel Act*, being chapter 440 of the Revised Statutes of Ontario, 1980, are repealed.

(2) Subsection 121 (1) of the said Act is amended by striking out “county court within the Regional Area or a judge of the county court of a county or judicial district adjoining the Regional Area” in the second, third and fourth lines and inserting in lieu thereof “Ontario Court (General Division)”.

**42.**—(1) Subsection 4 (3) of the *Regional Municipality of Sudbury Act*, being chapter 441 of the Revised Statutes of Ontario, 1980, is repealed.

(2) Subsection 108 (1) of the said Act is amended by striking out “district court within the Regional Area or a judge of the district court of a district adjoining the Regional Area” in the second, third and fourth lines and inserting in lieu thereof “Ontario Court (General Division)”.

**43.**—(1) Subsections 4 (3) and (5) of the *Regional Municipality of Waterloo Act*, being chapter 442 of the Revised Statutes of Ontario, 1980, are repealed.

(2) Subsection 156 (1) of the said Act is amended by striking out “county court within the Regional Area or a judge of the county court of a county adjoining the Regional Area” in the second, third and fourth lines and inserting in lieu thereof “Ontario Court (General Division)”.

**44.**—(1) Subsection 4 (3) of the *Regional Municipality of York Act*, being chapter 443 of the Revised Statutes of Ontario, 1980, is repealed.

(2) Subsection 157 (1) of the said Act is amended by striking out “county court within the Regional Area or a judge of the county court of a county or judicial district adjoining the Regional Area” in the second, third and fourth lines and inserting in lieu thereof “Ontario Court (General Division)”.

**45.—**(1) Subsection 23 (2) of the *Retail Sales Tax Act*, being chapter 454 of the Revised Statutes of Ontario, 1980, is amended by striking out “Registrar of the Supreme Court or the local registrar of the Supreme Court” in the fourth and fifth lines and inserting in lieu thereof “local registrar of the Ontario Court (General Division)”.

(2) Subsection 25 (1) of the said Act is amended by striking out “Registrar of the Supreme Court or the local registrar of the Supreme Court” in the second and third lines and inserting in lieu thereof “local registrar of the Ontario Court (General Division)”.

**46.** The *Sheriffs Act*, being chapter 470 of the Revised Statutes of Ontario, 1980, as amended by the Statutes of Ontario, 1984, chapter 11, section 212 and 1989, chapter 24, section 2, is repealed.

**47.** Subsection 35 (1) of the *Statute Labour Act*, being chapter 482 of the Revised Statutes of Ontario, 1980, is amended by striking out “Provisional Judicial” in the fifteenth line and inserting in lieu thereof “Territorial”.

**48.—**(1) Sections 2, 4 and 5 of the *Surrogate Courts Act*, being chapter 491 of the Revised Statutes of Ontario, 1980, are repealed.

(2) Sections 6 and 7 of the said Act, as amended by the Statutes of Ontario, 1984, chapter 11, section 215, are repealed.

(3) Sections 8 and 9 of the said Act are repealed.

(4) Section 11 of the said Act, as amended by the Statutes of Ontario, 1982, chapter 10, section 1, is repealed.

(5) Section 12 of the said Act, as amended by the Statutes of Ontario, 1984, chapter 11, section 215, is repealed.

(6) Sections 14 and 15 of the said Act are repealed.

(7) Section 17 of the said Act is repealed and the following substituted therefor:

Depository  
for the wills  
of living  
persons

**17.** The office of the local registrar of the Ontario Court (General Division) is a depository for all wills of living persons given there for safekeeping, and the local registrar shall receive and keep those wills under such regulations as are prescribed by the rules of court.



(8) Section 18 of the said Act is amended by striking out “regulations as are prescribed by the surrogate court rules” in the fourth and fifth lines and inserting in lieu thereof “conditions as are prescribed by the rules of court”.

(9) Sections 21, 22 and 23 of the said Act are repealed.

(10) Section 26 of the said Act is repealed and the following substituted therefor:

**26.—**(1) An application for a grant of probate or letters of administration shall be made to the Ontario Court (General Division) and shall be filed in the office for the county or district in which the testator or intestate had at the time of death a fixed place of abode.

Grant of  
probate or  
adminis-  
tration,  
jurisdiction

(2) If the testator or intestate had no fixed place of abode in Ontario or resided out of Ontario at the time of death, the application shall be filed in the office for the county or district in which the testator or intestate had property at the time of death.

Where  
decedent had  
no abode in  
Ontario

(3) In other cases the application for probate or letters of administration may be filed in any office.

When  
application  
may be filed  
in any office

(11) Sections 27, 28 and 29 of the said Act are repealed.

(12) Subsection 30 (1) of the said Act is repealed and the following substituted therefor:

(1) The court may cause any question of fact arising in any proceeding to be tried by a jury.

Trial of  
questions of  
fact by a  
jury

(13) Section 32 of the said Act is repealed.

(14) Subsection 33 (1) of the said Act is repealed and the following substituted therefor:

(1) Any party or person taking part in a proceeding under this Act may appeal to the Divisional Court from an order, determination or judgment of the Ontario Court (General Division) if the value of the property affected by such order, determination or judgment exceeds \$200.

Right of  
appeal

(15) Subsections 33 (4), (5) and (6) of the said Act are repealed.

(16) Section 34 of the said Act is repealed.



(17) Section 44 of the said Act is amended by striking out “surrogate court” in the sixth line and inserting in lieu thereof “office of the Ontario Court (General Division)”.

(18) Section 45 of the said Act is repealed and the following substituted therefor:

Where  
application  
filed in more  
than one  
office

**45.** If it appears by the certificate of the Estate Registrar for Ontario that application for probate or administration has been filed in two or more court offices, the proceedings shall be stayed until, on motion, a judge of the Ontario Court (General Division) determines where the application will proceed.

(19) Section 60 of the said Act is amended by striking out “judge of the court for the time being, or in case of the separation of counties, to enure for the benefit of any judge of a surrogate court to be named by the Supreme Court for that purpose” in the fifth, sixth, seventh and eighth lines and inserting in lieu thereof “Accountant of the Ontario Court”.

(20) Subsection 74 (1) of the said Act is repealed.

(21) Subsection 74 (3) of the said Act is repealed and the following substituted therefor:

Powers of  
judge on  
passing  
accounts

(3) The judge, on passing the accounts of an executor, administrator or trustee under a will of which the trustee is an executor, has jurisdiction to enter into and make full inquiry and accounting of and concerning the whole property that the deceased was possessed of or entitled to, and its administration and disbursement.

(22) Subsection 74 (6) of the said Act is repealed.

(23) Section 78 of the said Act is repealed.

(24) Section 80 of the said Act, as re-enacted by the Statutes of Ontario, 1984, chapter 11, section 215, is repealed.

(25) The title to the *Surrogate Courts Act* is repealed and the following substituted therefor:

#### ESTATES ACT

**49.—**(1) Section 1 of the *Territorial Division Act*, being chapter 497 of the Revised Statutes of Ontario, 1980, as amended by the Statutes of Ontario, 1982, chapter 57, section 4, is further amended by striking out “5, 5a, 6, 7 and 8 for municipal and judicial purposes such counties, and for judicial

purposes such districts and metropolitan and regional areas, are respectively” in the third, fourth, fifth and sixth lines and inserting in lieu thereof “and 5, for municipal purposes such counties are”.

(2) Paragraph 2 of section 1 of the said Act is amended by striking out the following sentences at the end thereof:

“The Indian Reserve at Cape Croker shall, for judicial purposes, be deemed part of the Township of Albemarle.

“The Indian Reserve at Chief’s Point and the Saugeen Indian Reserve north of the mouth of the Saugeen River shall, for judicial purposes, be deemed part of the Township of Amabel”.

(3) Paragraph 42 of the said section 1 is amended by striking out “The Territorial District of Algoma forms the Provisional Judicial District of Algoma” in the seventh and eighth lines from the end thereof.

(4) Paragraph 43 of the said section 1 is amended by striking out “The Territorial District of Cochrane forms the Provisional Judicial District of Cochrane” at the end thereof.

(5) Paragraph 44 of the said section 1 is amended by striking out “The Territorial District of Kenora forms the Provisional Judicial District of Kenora” at the end thereof.

(6) Paragraph 45 of the said section 1 is amended by striking out “The Territorial District of Manitoulin forms the Provisional Judicial District of Manitoulin” at the end thereof.

(7) Paragraph 46 of the said section 1 is amended by striking out “The District Municipality of Muskoka forms the Provisional Judicial District of Muskoka” at the end thereof.

(8) Paragraph 47 of the said section 1 is amended by striking out “The Territorial District of Nipissing forms the Provisional Judicial District of Nipissing” at the end thereof.

(9) Paragraph 48 of the said section 1 is amended by striking out “The Territorial District of Parry Sound forms the Provisional Judicial District of Parry Sound” at the end thereof.

(10) Paragraph 49 of the said section 1 is amended by striking out “The Territorial District of Rainy River forms the Provisional Judicial District of Rainy River” at the end thereof.

(11) Paragraph 50 of the said section 1, as amended by the Statutes of Ontario, 1986, chapter 52, section 1, is further amended by striking out "The Territorial District of Sudbury forms the Provisional Judicial District of Sudbury" at the end thereof.

(12) Paragraph 51 of the said section 1 is amended by striking out "The Territorial District of Thunder Bay forms the Provisional Judicial District of Thunder Bay" at the end thereof.

(13) Paragraph 52 of the said section 1 is amended by striking out "The Territorial District of Timiskaming forms the Provisional Judicial District of Timiskaming" at the end thereof.

(14) Subsection 4 (1) of the said Act is amended by striking out "judicial" in the first line.

(15) Subsection 4 (2) of the said Act is amended by striking out "courts" in the fourth line.

(16) Section 5 of the said Act is repealed and the following substituted therefor:

Cities and  
towns

**5.** For municipal purposes, cities, towns and other municipalities withdrawn from the jurisdiction of a county do not form part of the counties in which they are respectively situate.

(17) Section 5a of the said Act, as enacted by the Statutes of Ontario, 1982, chapter 57, section 4, is repealed.

(18) Sections 6, 7 and 8 of the said Act are repealed.

(19) Clause 15 (b) of the said Act is amended by striking out "or provisional judicial district" in the first and second lines.

**50.** Subsection 13 (2) of the *Tobacco Tax Act*, being chapter 502 of the Revised Statutes of Ontario, 1980, is amended by striking out "Registrar of the Supreme Court or with the local registrar of the Supreme Court" in the fourth and fifth lines and inserting in lieu thereof "local registrar of the Ontario Court (General Division)".

**51.** Subsection 27 (1) of the *Vital Statistics Act*, being chapter 524 of the Revised Statutes of Ontario, 1980, is amended by striking out "The Registrar of the Supreme Court and every local registrar of the Supreme Court" in the first and second



lines and inserting in lieu thereof "Every local registrar of the Ontario Court (General Division)".

**52.**—(1) Subsection 10 (1) of the *Woodmen's Lien for Wages Act*, being chapter 537 of the Revised Statutes of Ontario, 1980, is amended by striking out "\$1,000" in the third line and in the sixth line and inserting in lieu thereof in each instance "the monetary jurisdiction of the Small Claims Court".

(2) Section 16 of the said Act is amended by striking out "\$1,000" in the first line and inserting in lieu thereof "the monetary jurisdiction of the Small Claims Court".

(3) Subsection 17 (1) of the said Act is amended by striking out "\$1,000" in the first line and inserting in lieu thereof "the monetary jurisdiction of the Small Claims Court".

**53.** Section 116 of the *Workers' Compensation Act*, being chapter 539 of the Revised Statutes of Ontario, 1980, is amended by striking out "\$1,000" in the ninth line and inserting in lieu thereof "the monetary jurisdiction of the Small Claims Court".

**54.** This Act comes into force on a day to be named by proclamation of the Lieutenant Governor. Commence-  
ment

**55.** The short title of this Act is the *Court Reform Statute Law Amendment Act, 1989*. Short title









# Bill 3

(Chapter 56  
*Statutes of Ontario, 1989*)

## **An Act to amend certain Statutes of Ontario Consequent upon Amendments to the Courts of Justice Act, 1984**

The Hon. I. Scott  
*Attorney General*

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<i>1st Reading</i>	May 1st, 1989
<i>2nd Reading</i>	June 14th, 1989
<i>3rd Reading</i>	November 14th, 1989
<i>Royal Assent</i>	November 15th, 1989

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## Bill 3

1989

**An Act to amend certain Statutes of Ontario  
Consequent upon Amendments to the  
Courts of Justice Act, 1984**

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

**1.—(1)** Subsection 23 (8) of the *Cemeteries Act*, being chapter 59 of the Revised Statutes of Ontario, 1980, is amended by striking out “\$200 or less” in the third line and inserting in lieu thereof “within the monetary jurisdiction of the Small Claims Court”.

(2) Subsection 29 (3) of the said Act is amended by striking out “the judge of the surrogate court of the Judicial District of York” in the fourth and fifth lines and inserting in lieu thereof “a judge of the Ontario Court (General Division) sitting in The Municipality of Metropolitan Toronto”.

**2.** Subsection 63 (1) of the *Child and Family Services Act*, 1984, being chapter 55, is repealed and the following substituted therefor:

(1) The Minister may appoint a judge of the Ontario Court of Justice or the Unified Family Court to investigate a matter relating to a child in a society's care or the proper administration of this Part, and a judge who is appointed shall conduct the investigation and make a written report to the Minister.

Investigation  
by judge

**3.—(1)** Section 3 of the *Children's Law Reform Act*, being chapter 68 of the Revised Statutes of Ontario, 1980, is amended by striking out “the Judicial District” in the second and third lines and inserting in lieu thereof “The Regional Municipality”.

(2) Section 73 of the said Act, as enacted by the Statutes of Ontario, 1982, chapter 20, section 1, is repealed and the following substituted therefor:

Order made  
under  
R.S.O. 1980,  
c. 292

**73.**—(1) An application to vary an order made by a surrogate court under the *Minors Act* shall be made to the Ontario Court (General Division).

Idem  
1984, c. 11

(2) Section 160 of the *Courts of Justice Act, 1984* does not apply to subsection (1) to deem the reference to a surrogate court to be a reference to the Ontario Court (General Division).

**4.**—(1) Section 51 of the *Construction Lien Act, 1983*, being chapter 6, as amended by the Statutes of Ontario, 1984, chapter 11, section 165, is repealed.

(2) Section 52 of the said Act, as amended by the Statutes of Ontario, 1984, chapter 11, section 165, is repealed.

(3) Section 53 of the said Act, as amended by the Statutes of Ontario, 1984, chapter 11, section 165, is repealed and the following substituted therefor:

Court to  
dispose  
completely of  
action

**53.** The court, whether the action is being tried by a judge or by a master on a reference,

- (a) shall try the action, including any set-off, cross-claim, counterclaim and, subject to section 58, third party claim, and all questions that arise therein or that are necessary to be tried in order to dispose completely of the action and to adjust the rights and liabilities of the persons appearing before it or upon whom notice of trial has been served; and
- (b) shall take all accounts, make all inquiries, give all directions and do all things necessary to dispose finally of the action and all matters, questions and accounts arising therein or at the trial and to adjust the rights and liabilities of, and give all necessary relief to, all parties to the action.

(4) Section 54 of the said Act, as amended by the Statutes of Ontario, 1984, chapter 11, section 165, is repealed and the following substituted therefor:

Where  
exclusive  
jurisdiction  
not acquired

**54.** A judge or master does not acquire exclusive jurisdiction over the trial of an action or reference by reason only of appointing the time and place for the trial of the action or reference, or for holding a settlement meeting.

(5) Subsection 60 (1) of the said Act, as amended by the Statutes of Ontario, 1984, chapter 11, section 165, is repealed and the following substituted therefor:

(1) On motion made after the delivery of all statements of defence, or the statements of defence to all crossclaims, counterclaims or third party claims, if any, or the time for their delivery has expired, a judge may refer the whole action for trial to a master assigned to the county or district in which the premises or part of the premises are situate. Reference to master

(1a) A master shall not hear or dispose of a motion made under subsection (1). Idem

**(6) Subsection 60 (2) of the said Act, as amended by the Statutes of Ontario, 1984, chapter 11, section 165, is repealed and the following substituted therefor:**

(2) At the trial, a judge may direct a reference to a master assigned to the county or district in which the premises or part of the premises are situate. Idem

(2a) A master to whom a reference has been directed has all the jurisdiction, powers and authority of the court to try and completely dispose of the action and all matters and questions arising in connection with the action, including the giving of leave to amend any pleading and the giving of directions to a receiver or trustee appointed by the court. Powers of master on reference

**(7) Subsection 60 (3) of the said Act, as amended by the Statutes of Ontario, 1984, chapter 11, section 165, is repealed and the following substituted therefor:**

(3) Where under subsection (1) the action has been referred to a master for trial, any person who subsequently becomes a party to the action may, within seven days after becoming a party to the action, make a motion to a judge of the court that directed the reference to set aside the judgment directing the reference. Application to set aside order of reference

**(8) Clause 64 (1) (b) of the said Act, as amended by the Statutes of Ontario, 1984, chapter 11, section 165, is repealed and the following substituted therefor:**

(b) in a report in the prescribed form, where the trial is conducted by a master on a reference.

**(9) Subsection 64 (3) of the said Act, as amended by the Statutes of Ontario, 1984, chapter 11, section 165, is repealed and the following substituted therefor:**

(3) The report of a master shall be deemed to be confirmed at the expiration of the fifteen-day period next following the date that the notice of filing was given, unless notice of a When report deemed confirmed



motion to oppose confirmation of the report is served within that time.

**5.—**(1) Subsection 48 (3) of the *Conveyancing and Law of Property Act*, being chapter 90 of the Revised Statutes of Ontario, 1980, as amended by the Statutes of Ontario, 1986, chapter 64, section 6, is further amended by striking out “the office of the Registrar of the Supreme Court at Osgoode Hall” in the fifth and sixth lines and inserting in lieu thereof “an office of the Ontario Court (General Division)”.

(2) Section 49 of the said Act, as amended by the Statutes of Ontario, 1986, chapter 64, section 6, is further amended by striking out “the office of the Registrar of the Supreme Court at Osgoode Hall” in the thirteenth and fourteenth lines and inserting in lieu thereof “an office of the Ontario Court (General Division)”.

**6.** Subsection 6 (1) of the *Coroners Act*, being chapter 93 of the Revised Statutes of Ontario, 1980, is amended by striking out “the Chief Judge of the County and District Courts” in the second line and inserting in lieu thereof “a judge of the Ontario Court (General Division) designated by the Chief Justice of the Ontario Court”.

**7.—**(1) Subsection 78 (2) of the *Corporations Tax Act*, being chapter 97 of the Revised Statutes of Ontario, 1980, is amended by striking out “Registrar of the Supreme Court or the local registrar of the Supreme Court” in the fourth and fifth lines and inserting in lieu thereof “local registrar of the Ontario Court (General Division)”.

(2) Subsection 80 (1) of the said Act is amended by striking out “Registrar of the Supreme Court or the local registrar of the Supreme Court” in the second and third lines and inserting in lieu thereof “local registrar of the Ontario Court (General Division)”.

**8.—**(1) Clause 3 (2) (a) of the *County of Haliburton Act*, 1982, being chapter 57, is repealed.

(2) Subsection 4 (4) of the said Act is repealed.

**9.—**(1) Section 3 of the *Creditors' Relief Act*, being chapter 103 of the Revised Statutes of Ontario, 1980, as re-enacted by the Statutes of Ontario, 1985, chapter 1, section 1, is amended by adding thereto the following subsection:

(2) Subsection (1) does not affect the priority of a creditor by execution or garnishment issued by the Small Claims Court. Exception

**(2) Subsection 22 (2) of the said Act is repealed and the following substituted therefor:**

(2) Such costs shall be ascertained in accordance with the tariffs of costs under the rules of court applicable to, Scale of costs

(a) the Small Claims Court, if the claim is within the monetary jurisdiction of that court; or

(b) the Ontario Court (General Division), in any other case.

**10.—(1) Subsection 3 (1) of the *Crown Attorneys Act*, being chapter 107 of the Revised Statutes of Ontario, 1980, is amended by striking out “the Judicial District of York” in the third and fourth lines and in the sixth line and inserting in lieu thereof in each instance “The Municipality of Metropolitan Toronto”.**

(2) Subsection 3 (2) of the said Act is amended by striking out “the Judicial District of York” wherever it occurs and inserting in lieu thereof in each instance “The Municipality of Metropolitan Toronto”.

(3) Subclause 12 (b) (ii) of the said Act, as re-enacted by the Statutes of Ontario, 1984, chapter 11, section 170, is repealed.

**11.—(1) Subsection 4 (3) of the *District Municipality of Muskoka Act*, being chapter 121 of the Revised Statutes of Ontario, 1980, is repealed.**

(2) Subsection 112 (1) of the said Act is amended by striking out “district court within the District Area or a judge of the county court or district court of a county or district adjoining the District Area” in the second, third and fourth lines and inserting in lieu thereof “Ontario Court (General Division)”.

**12.—(1) Section 69 of the *Election Act, 1984*, being chapter 54, is repealed and the following substituted therefor:**

**69.** In this section and in sections 70 to 80, unless otherwise stated, “judge” means a judge of the Ontario Court (Provincial Division). Definition

(2) Subsection 70 (2) of the said Act is amended by striking out “the clerk of the county or district court” in the third line

and inserting in lieu thereof "a clerk of the Ontario Court (Provincial Division) of the county or district in which the electoral district or any part of it is situate".

(3) Subsection 72 (2) of the said Act is amended by striking out "of the county or district court" in the first and second lines.

(4) Section 78 of the said Act is amended by striking out "court of the county or judicial district" in the fourth and fifth lines and inserting in lieu thereof "Ontario Court (Provincial Division)".

(5) Subsection 79 (3) of the said Act is amended by striking out "Registrar of the Supreme Court" in the fifth and sixth lines and inserting in lieu thereof "local registrar of the Ontario Court (General Division) of the county or district in which the electoral district or any part of it is situate" and by striking out "Registrar" in the eighth line and inserting in lieu thereof "local registrar".

(6) Subsections 79 (4) and (5) of the said Act are amended by striking out "Registrar" wherever it occurs and inserting in lieu thereof in each instance "local registrar".

(7) Subsection 85 (5) of the said Act is amended by striking out "Registrar of the Supreme Court" in the second and third lines and inserting in lieu thereof "local registrar of the Ontario Court (General Division) of the county or district in which the electoral district or any part of it is situate" and by striking out "Registrar" in the fourth line and inserting in lieu thereof "local registrar".

(8) Subsections 98 (5) and (6) of the said Act are repealed and the following substituted therefor:

Local  
registrar to  
notify  
C.E.O.

(5) When an action is commenced by a person other than the Chief Election Officer, the local registrar of the Ontario Court (General Division) shall notify the Chief Election Officer by registered mail.

(9) Subsection 103 (3) of the said Act is amended by striking out "Registrar of the Supreme Court" in the second line and inserting in lieu thereof "local registrar of the Ontario Court (General Division)".

(10) Subsection 105 (1) of the said Act is amended by striking out "Registrar of the Supreme Court" in the sixth and seventh lines and inserting in lieu thereof "local registrar of the Ontario Court (General Division)".



(11) Subsection 106 (7) of the said Act is amended by striking out "Registrar of the Supreme Court" in the first line and inserting in lieu thereof "local registrar of the Ontario Court (General Division)".

(12) Subsection 107 (2) of the said Act is amended by striking out "Registrar" in the second line and inserting in lieu thereof "local registrar".

(13) Subsection 109 (2) of the said Act is repealed and the following substituted therefor:

(2) The appeal shall be heard as speedily as practicable.

Appeal to be  
heard  
speedily

13. Section 49 of the *Evidence Act*, being chapter 145 of the Revised Statutes of Ontario, 1980, is amended by striking out "surrogate court granting the same, or under the seal of the Supreme Court, where the probate or letters of administration were granted by the former court of probate for Upper Canada" in the fifth, sixth, seventh and eighth lines and inserting in lieu thereof "court that granted it or under the seal of the Ontario Court (General Division)".

14. Subsections 24 (2) and (3) of the *Fraudulent Debtors Arrest Act*, being chapter 177 of the Revised Statutes of Ontario, 1980, are repealed.

15.—(1) Subsection 14 (6) of the *Fuel Tax Act, 1981*, being chapter 59, is amended by striking out "Registrar of the Supreme Court or the local registrar of the Supreme Court" in the third and fourth lines and inserting in lieu thereof "local registrar of the Ontario Court (General Division)".

(2) Subsection 14 (10) of the said Act is amended by striking out "Registrar of the Supreme Court or the local registrar of the Supreme Court" in the second and third lines and inserting in lieu thereof "local registrar of the Ontario Court (General Division)".

16. Subsection 14 (2) of the *Gasoline Tax Act*, being chapter 186 of the Revised Statutes of Ontario, 1980, is amended by striking out "Registrar of the Supreme Court or with the local registrar of the Supreme Court" in the fourth and fifth lines and inserting in lieu thereof "local registrar of the Ontario Court (General Division)".

17.—(1) Clause 20 (3) (a) of the *Income Tax Act*, being chapter 213 of the Revised Statutes of Ontario, 1980, is amended by striking out "Registrar of the Supreme Court or the local registrar of the court" in the fifth, sixth and seventh



lines and inserting in lieu thereof "local registrar of the Ontario Court (General Division)".

(2) Subsection 21 (3) of the said Act is amended by striking out "Registrar of the Supreme Court or the local registrar of the court" in the fourth and fifth lines and inserting in lieu thereof "local registrar of the Ontario Court (General Division)".

(3) Subsection 21 (6) of the said Act is amended by striking out "Registrar of the Supreme Court or the local registrar of the court, as the case may be" in the first, second and third lines and inserting in lieu thereof "local registrar of the Ontario Court (General Division)".

**18.** Subsection 19 (2) of the *Industrial Standards Act*, being chapter 216 of the Revised Statutes of Ontario, 1980, is amended by striking out "\$1,000" in the fifth line and inserting in lieu thereof "the monetary jurisdiction of the Small Claims Court".

**19.** Section 61 of the *Insurance Act*, being chapter 218 of the Revised Statutes of Ontario, 1980, is amended by striking out "the Master of the Supreme Court" in the fourth line and inserting in lieu thereof "a referee in a proceeding in the Ontario Court (General Division)".

**20.—**(1) Clause 27 (i) of the *Interpretation Act*, being chapter 219 of the Revised Statutes of Ontario, 1980, is repealed and the following substituted therefor:

- (i) where the time limited for a proceeding or for the doing of any thing in a court office, a land registry office or a sheriff's office expires or falls on a day that is prescribed as a holiday for that office, the time so limited extends to and the thing may be done on the day next following that is not a holiday.

(2) Paragraphs 9 and 35 of section 30 of the said Act are repealed.

**21.—**(1) Subsection 5 (3) of the *Juries Act*, being chapter 226 of the Revised Statutes of Ontario, 1980, is amended by adding "and" at the end of clause (a) and by striking out clauses (b) and (c) and inserting in lieu thereof:

- (b) to the local registrar of the Ontario Court (General Division), a copy of the determination for the number of jurors under clause (1) (a).

(2) Subsection 12 (1) of the said Act, as amended by the Statutes of Ontario, 1984, chapter 11, section 189, is repealed and the following substituted therefor:

(1) A judge of the Ontario Court (General Division) may issue precepts in the form prescribed by the regulations to the sheriff for the return of such number of jurors as the sheriff has determined as the number to be drafted and returned or such greater or lesser number as in his or her opinion is required.

Issuance of  
precepts

(3) Subsection 12 (1a) of the said Act, as enacted by the Statutes of Ontario, 1984, chapter 11, section 189, is repealed.

(4) Subsection 12 (2) of the said Act is repealed.

(5) Subsection 39 (2) of the said Act is amended by striking out "Registrar or the local registrar of the Supreme Court, as the case may be" in the third and fourth lines and inserting in lieu thereof "local registrar of the Ontario Court (General Division)".

22.—(1) Clauses 9 (1) (a), (b) and (c) of the *Justices of the Peace Act, 1989*, being chapter 46, are repealed and the following substituted therefor:

- (a) the Chief Judge of the Ontario Court (Provincial Division) who shall preside over the Review Council;
- (b) the Co-ordinator;
- (c) the regional senior judge of the Ontario Court (Provincial Division) in the region in which the matter being considered by the Council arises.

. . . . .

- a) le juge en chef de la Cour de l'Ontario (Division provinciale), qui préside le Conseil;
- b) le coordonnateur;
- c) le juge principal régional de la Cour de l'Ontario (Division provinciale) de la région où se présente l'affaire dont traite le Conseil.

(2) Subsection 14 (1) of the said Act is repealed and the following substituted therefor:

Co-ordinator  
to supervise  
justices,  
assign duties

(1) The Co-ordinator has general supervision and direction over sittings of justices of the peace and the assignment of their duties, subject to the direction of the Chief Judge of the Ontario Court (Provincial Division).

Surveillance,  
etc., par le  
coordon-  
nateur

(1) Le coordonnateur est chargé de l'administration et de la surveillance des sessions des juges de paix et de l'assignation de leurs fonctions, sous réserve de la direction du juge en chef de la Cour de l'Ontario (Division provinciale).

(3) Subsection 14 (6) of the said Act is amended by striking out "a" in the fourth line of the English version and inserting in lieu thereof "the" and by striking out "d'un" in the fifth line of the French version and inserting in lieu thereof "du".

**23.** Subsection 12 (2) of the *Land Transfer Tax Act*, being chapter 231 of the Revised Statutes of Ontario, 1980, is amended by striking out "Registrar of the Supreme Court or with the Local Registrar of the Supreme Court" in the fourth and fifth lines and inserting in lieu thereof "local registrar of the Ontario Court (General Division)".

**24.—**(1) Sections 69 and 70 of the *Landlord and Tenant Act*, being chapter 232 of the Revised Statutes of Ontario, 1980, are repealed.

(2) Section 74 of the said Act is repealed and the following substituted therefor:

Scale of costs

**74.** The costs of the proceeding before the judge shall be on the Small Claims Court scale if the amount claimed by the landlord does not exceed the monetary jurisdiction of the Small Claims Court.

**25.** Section 49 of the *Law Society Act*, being chapter 233 of the Revised Statutes of Ontario, 1980, is amended by striking out "Registrar of the Supreme Court" in the fourth line and inserting in lieu thereof "local registrar of the Ontario Court (General Division) at Toronto".

**26.—**(1) Subsection 17 (3) of the *Legislative Assembly Act*, being chapter 235 of the Revised Statutes of Ontario, 1980, is repealed and the following substituted therefor:

Transmission  
of copy of  
disclaimer

(3) The Clerk of the Assembly shall, on receiving a disclaimer, forthwith send a copy of it to the local registrar of the Ontario Court (General Division) for the county or district in



which is situate the electoral district or any part of the electoral district for which the member so disclaiming was elected.

(2) Subsection 47 (2) of the said Act is amended by striking out "the Judicial District of York" in the second and third lines and inserting in lieu thereof "The Municipality of Metropolitan Toronto".

27. Subsection 13 (4) of the *Libel and Slander Act*, being chapter 237 of the Revised Statutes of Ontario, 1980, is repealed and the following substituted therefor:

(4) An order made under this section is final and is not subject to appeal.

Order of  
judge  
respecting  
security final

28.—(1) Subsection 10 (1) of the *Master and Servant Act*, being chapter 257 of the Revised Statutes of Ontario, 1980, is amended by striking out "small claims court of the division in which the cause of action arose or in which the party or parties complained against, or one of them, resided at the time of the making of the complaint, or to the small claims court held in the division in which the party or parties complained against or one of them carried on business" in the fourth, fifth, sixth, seventh, eighth and ninth lines and inserting in lieu thereof "Ontario Court (General Division)".

(2) Section 11 of the said Act is repealed.

29. Subsection 102 (1) of the *Municipal Act*, being chapter 302 of the Revised Statutes of Ontario, 1980, is amended by striking out "county or district court of the county or district in which the municipality is situate, or a judge of the county or district court of a county or district adjoining the county or district in which the municipality is situate" in the second, third, fourth, fifth and sixth lines and inserting in lieu thereof "Ontario Court (General Division)".

30.—(1) Subsection 87 (1) of the *Municipal Elections Act*, being chapter 308 of the Revised Statutes of Ontario, 1980, as re-enacted by the Statutes of Ontario, 1988, chapter 33, section 9, is amended by striking out "District Court of" in the ninth line and inserting in lieu thereof "Ontario Court (Provincial Division) sitting in".

(2) Subsection 87 (4) of the said Act, as enacted by the Statutes of Ontario, 1988, chapter 33, section 9, is amended by striking out "the local registrar of the District Court" in the third line and inserting in lieu thereof "a clerk of the Ontario Court (Provincial Division) of the county or district in which the electoral district or any part of it is situate".



(3) Subsection 88c (1) of the said Act, as enacted by the Statutes of Ontario, 1988, chapter 33, section 9, is amended by striking out "District Court" in the fourth line and inserting in lieu thereof "Ontario Court (Provincial Division)".

(4) Subsection 88c (2) of the said Act, as enacted by the Statutes of Ontario, 1988, chapter 33, section 9, is amended by striking out "District Court" in the fourth line and inserting in lieu thereof "Ontario Court (Provincial Division)".

(5) Section 88j of the said Act, as enacted by the Statutes of Ontario, 1988, chapter 33, section 9, is repealed and the following substituted therefor:

Appeal from  
decision of  
provincial  
judge or  
recount  
officer

**88j.**—(1) Any party may appeal to the Ontario Court (General Division) from the decision of the provincial judge on the application or of the recount officer on the recount, as the case may be, by giving written notice not more than five days following the completion of the hearing or the recount to the other parties concerned and to the provincial judge or the recount officer and the notice may limit the appeal to specified disputed ballots.

Service of  
notice

(2) The notice shall be served upon the other parties personally or upon the solicitor who acted for the party or in the manner that a judge of the Ontario Court (General Division) may direct.

Documents  
to be  
forwarded

(3) The provincial judge or recount officer shall forward to the local registrar of the Ontario Court (General Division) by registered mail,

- (a) the notice of appeal;
- (b) a certificate showing the findings of the provincial judge or recount officer on the ballots or statements in dispute;
- (c) if the appeal is limited to specified disputed ballots, the ballots or statements of the vote that are the subject of the appeal in the envelopes described in subsection 88c (7) and section 88d; and
- (d) if the appeal is not limited, all of the ballots in the envelopes referred to in clause 88c (8) (b) or 88e (1) (b).

Certificate to  
be issued  
after appeal

(4) The provincial judge or recount officer shall await the result of the appeal before preparing the certificate under subsection 88c (8) or 88e (2).

(5) The provincial judge or recount officer shall, upon request, allow each party to make a copy of the order or certificate, as the case may be, before it is forwarded to the local registrar.

Copy of  
certificate

(6) On receipt of the ballots, notice and statement, the local registrar shall immediately fix a time for hearing the appeal and shall notify the parties or their solicitors of the time so fixed.

Appointment  
for hearing

(7) One judge of the Ontario Court (General Division) shall determine the objection pertaining to, or count again, the ballots or such of them as are the subject of appeal, or review the re-addition, as the case may be, and shall immediately certify in writing the decision of the court to the provincial judge or to the recount officer.

Determi-  
nation by  
General  
Division

(8) The provincial judge or recount officer, in compliance with the decision of the Ontario Court (General Division), shall certify the result without delay.

Certificate to  
reflect  
decision

**31.** Subsection 252 (1) of the *Municipality of Metropolitan Toronto Act*, being chapter 314 of the Revised Statutes of Ontario, 1980, is amended by striking out "county court of the Judicial District of York, or a judge of the county court of a judicial district adjoining the Judicial District of York" in the second, third and fourth lines and inserting in lieu thereof "Ontario Court (General Division)".

**32.** Subsection 121 (1) of the *County of Oxford Act*, being chapter 365 of the Revised Statutes of Ontario, 1980, is amended by striking out "county court within the County or a judge of the county court of a county or judicial district adjoining the County" in the second, third and fourth lines and inserting in lieu thereof "Ontario Court (General Division)".

**33.—(1)** Subsection 11 (9) of the *Provincial Land Tax Act*, being chapter 399 of the Revised Statutes of Ontario, 1980, as re-enacted by the Statutes of Ontario, 1982, chapter 18, section 7, is amended by striking out "Registrar of the Supreme Court of Ontario or the local registrar of the Supreme Court" in the fourth, fifth and sixth lines and inserting in lieu thereof "local registrar of the Ontario Court (General Division)".

(2) Subsection 11 (11) of the said Act, as enacted by the Statutes of Ontario, 1982, chapter 18, section 7, is amended by striking out "Registrar of the Supreme Court or the local registrar of the Supreme Court" in the first and second lines and inserting in lieu thereof "local registrar of the Ontario Court (General Division)".

**34.—**(1) Clause 1 (1) (j) of the *Provincial Offences Act*, being chapter 400 of the Revised Statutes of Ontario, 1980, is amended by striking out “court” in the first line and inserting in lieu thereof “Chief Judge of the Ontario Court (Provincial Division)”.

(2) Subsection 31 (2) of the said Act is amended by striking out “chief judge of the provincial offences courts” in the third and fourth lines and inserting in lieu thereof “Chief Judge of the Ontario Court (Provincial Division)”.

(3) Subsection 31 (3) of the said Act is amended by striking out “chief judge of the provincial offences courts” in the fourth and fifth lines and inserting in lieu thereof “Chief Judge of the Ontario Court (Provincial Division)”.

(4) The said Act is amended by adding thereto the following section:

Contempt

**90a.—**(1) Except as otherwise provided by an Act, every person who commits contempt in the face of a justice of the peace presiding over the Ontario Court (Provincial Division) in a proceeding under this Act is on conviction liable to a fine of not more than \$1,000 or to imprisonment for a term of not more than thirty days, or to both.

Statement to  
offender

(2) Before a proceeding is taken for contempt under subsection (1), the justice of the peace shall inform the offender of the conduct complained of and the nature of the contempt and inform him or her of the right to show cause why he or she should not be punished.

Show cause

(3) A punishment for contempt in the face of the court shall not be imposed without giving the offender an opportunity to show cause why he or she should not be punished.

Adjournment  
for adjudi-  
cation

(4) Except where, in the opinion of the justice of the peace, it is necessary to deal with the contempt immediately for the preservation of order and control in the courtroom, the justice of the peace shall adjourn the contempt proceeding to another day.

Adjudication  
by judge

(5) A contempt proceeding that is adjourned to another day under subsection (4) shall be heard and determined by the court presided over by a provincial judge.

Arrest for  
immediate  
adjudication

(6) Where the justice of the peace proceeds to deal with a contempt immediately and without adjournment under subsection (4), the justice of the peace may order the offender



arrested and detained in the courtroom for the purpose of the hearing and determination.

(7) Where the offender is appearing before the court as an agent who is not a barrister and solicitor entitled to practise in Ontario, the court may order that he or she be barred from acting as agent in the proceeding in addition to any other punishment to which he or she is liable.

Barring agent  
in contempt

(8) An order of punishment for contempt under this section is appealable in the same manner as if it were a conviction in a proceeding commenced by certificate under Part I of this Act.

Appeals

(9) This Act applies for the purpose of enforcing a punishment by way of a fine or imprisonment under this section.

Enforcement

(5) Section 91m of the said Act, as enacted by the Statutes of Ontario, 1983, chapter 80, section 1, is amended by striking out "provincial court (criminal division)" in the sixth line and inserting in lieu thereof "Ontario Court (Provincial Division) presided over by a provincial judge".

(6) Clause 99 (2) (a) of the said Act is amended by striking out "provincial court (criminal division) of" in the second and third lines and inserting in lieu thereof "Ontario Court (Provincial Division) presided over by a provincial judge sitting in".

(7) Subsection 118 (1) of the said Act is amended by striking out "provincial court (criminal division) of" in the fifth line and inserting in lieu thereof "Ontario Court (Provincial Division) presided over by a provincial judge sitting in".

(8) Subsection 122 (1) of the said Act is repealed and the following substituted therefor:

(1) An appeal lies from the judgment of the Ontario Court (Provincial Division) in an appeal under section 118 to the Court of Appeal, with leave of a justice of appeal, on special grounds, upon any question of law alone.

Appeal to  
Court of  
Appeal

(9) Section 123 of the said Act is repealed.

(10) Subsection 142 (1) of the said Act is amended by striking out "in the county or district in which the provincial offences court having jurisdiction in respect of the offence is situated" in the thirteenth, fourteenth and fifteenth lines.



**35.—**(1) Subsections 5 (3) and (4) of the *Regional Municipality of Durham Act*, being chapter 434 of the Revised Statutes of Ontario, 1980, are repealed.

(2) Subsection 133 (1) of the said Act is amended by striking out “county court within the Regional Area or a judge of the county court of a county or judicial district adjoining the Regional Area” in the second, third and fourth lines and inserting in lieu thereof “Ontario Court (General Division)”.

**36.—**(1) Subsections 5 (3), (4) and (6) of the *Regional Municipality of Haldimand-Norfolk Act*, being chapter 435 of the Revised Statutes of Ontario, 1980, are repealed.

(2) Subsection 116 (1) of the said Act is amended by striking out “county court within the Regional Area or a judge of the county court of a county or judicial district adjoining the Regional Area” in the second, third and fourth lines and inserting in lieu thereof “Ontario Court (General Division)”.

**37.—**(1) Subsections 5 (3) and (5) of the *Regional Municipality of Halton Act*, being chapter 436 of the Revised Statutes of Ontario, 1980, are repealed.

(2) Subsection 126 (1) of the said Act is amended by striking out “county court within the Regional Area or a judge of the county court of a county or judicial district adjoining the Regional Area” in the second, third and fourth lines and inserting in lieu thereof “Ontario Court (General Division)”.

**38.—**(1) Subsections 4 (3) and (5) of the *Regional Municipality of Hamilton-Wentworth Act*, being chapter 437 of the Revised Statutes of Ontario, 1980, are repealed.

(2) Subsection 138 (1) of the said Act is amended by striking out “county court within the Regional Area or a judge of the county court of a county or judicial district adjoining the Regional Area” in the second, third and fourth lines and inserting in lieu thereof “Ontario Court (General Division)”.

**39.—**(1) Subsections 4 (3) and (4) of the *Regional Municipality of Niagara Act*, being chapter 438 of the Revised Statutes of Ontario, 1980, are repealed.

(2) Subsection 165 (1) of the said Act is amended by striking out “either of the county courts within the Regional Area or a judge of the county court of a county adjoining the Regional Area” in the second, third and fourth lines and inserting in lieu thereof “the Ontario Court (General Division)”.

**40.**—(1) Subsection 2 (3) of the *Regional Municipality of Ottawa-Carleton Act*, being chapter 439 of the Revised Statutes of Ontario, 1980, is repealed.

(2) Subsection 168 (1) of the said Act is amended by striking out “county court of the Regional Area or a judge of the county court of a county adjoining the Regional Area” in the second, third and fourth lines and inserting in lieu thereof “Ontario Court (General Division)”.

**41.**—(1) Subsections 5 (3) and (5) of the *Regional Municipality of Peel Act*, being chapter 440 of the Revised Statutes of Ontario, 1980, are repealed.

(2) Subsection 121 (1) of the said Act is amended by striking out “county court within the Regional Area or a judge of the county court of a county or judicial district adjoining the Regional Area” in the second, third and fourth lines and inserting in lieu thereof “Ontario Court (General Division)”.

**42.**—(1) Subsection 4 (3) of the *Regional Municipality of Sudbury Act*, being chapter 441 of the Revised Statutes of Ontario, 1980, is repealed.

(2) Subsection 108 (1) of the said Act is amended by striking out “district court within the Regional Area or a judge of the district court of a district adjoining the Regional Area” in the second, third and fourth lines and inserting in lieu thereof “Ontario Court (General Division)”.

**43.**—(1) Subsections 4 (3) and (5) of the *Regional Municipality of Waterloo Act*, being chapter 442 of the Revised Statutes of Ontario, 1980, are repealed.

(2) Subsection 156 (1) of the said Act is amended by striking out “county court within the Regional Area or a judge of the county court of a county adjoining the Regional Area” in the second, third and fourth lines and inserting in lieu thereof “Ontario Court (General Division)”.

**44.**—(1) Subsection 4 (3) of the *Regional Municipality of York Act*, being chapter 443 of the Revised Statutes of Ontario, 1980, is repealed.

(2) Subsection 157 (1) of the said Act is amended by striking out “county court within the Regional Area or a judge of the county court of a county or judicial district adjoining the Regional Area” in the second, third and fourth lines and inserting in lieu thereof “Ontario Court (General Division)”.

**45.**—(1) Subsection 23 (2) of the *Retail Sales Tax Act*, being chapter 454 of the Revised Statutes of Ontario, 1980, is amended by striking out “Registrar of the Supreme Court or the local registrar of the Supreme Court” in the fourth and fifth lines and inserting in lieu thereof “local registrar of the Ontario Court (General Division)”.

(2) Subsection 25 (1) of the said Act is amended by striking out “Registrar of the Supreme Court or the local registrar of the Supreme Court” in the second and third lines and inserting in lieu thereof “local registrar of the Ontario Court (General Division)”.

**46.** The *Sheriffs Act*, being chapter 470 of the Revised Statutes of Ontario, 1980, as amended by the Statutes of Ontario, 1984, chapter 11, section 212 and 1989, chapter 24, section 2, is repealed.

**47.** Subsection 35 (1) of the *Statute Labour Act*, being chapter 482 of the Revised Statutes of Ontario, 1980, is amended by striking out “Provisional Judicial” in the fifteenth line and inserting in lieu thereof “Territorial”.

**48.**—(1) Sections 2, 4 and 5 of the *Surrogate Courts Act*, being chapter 491 of the Revised Statutes of Ontario, 1980, are repealed.

(2) Sections 6 and 7 of the said Act, as amended by the Statutes of Ontario, 1984, chapter 11, section 215, are repealed.

(3) Sections 8 and 9 of the said Act are repealed.

(4) Section 11 of the said Act, as amended by the Statutes of Ontario, 1982, chapter 10, section 1, is repealed.

(5) Section 12 of the said Act, as amended by the Statutes of Ontario, 1984, chapter 11, section 215, is repealed.

(6) Sections 14 and 15 of the said Act are repealed.

(7) Section 17 of the said Act is repealed and the following substituted therefor:

Depository  
for the wills  
of living  
persons

**17.** The office of the local registrar of the Ontario Court (General Division) is a depository for all wills of living persons given there for safekeeping, and the local registrar shall receive and keep those wills under such regulations as are prescribed by the rules of court.



(8) Section 18 of the said Act is amended by striking out “regulations as are prescribed by the surrogate court rules” in the fourth and fifth lines and inserting in lieu thereof “conditions as are prescribed by the rules of court”.

(9) Sections 21, 22 and 23 of the said Act are repealed.

(10) Section 26 of the said Act is repealed and the following substituted therefor:

**26.**—(1) An application for a grant of probate or letters of administration shall be made to the Ontario Court (General Division) and shall be filed in the office for the county or district in which the testator or intestate had at the time of death a fixed place of abode.

Grant of  
probate or  
adminis-  
tration,  
jurisdiction

(2) If the testator or intestate had no fixed place of abode in Ontario or resided out of Ontario at the time of death, the application shall be filed in the office for the county or district in which the testator or intestate had property at the time of death.

Where  
decendent had  
no abode in  
Ontario

(3) In other cases the application for probate or letters of administration may be filed in any office.

When  
application  
may be filed  
in any office

(11) Sections 27, 28 and 29 of the said Act are repealed.

(12) Subsection 30 (1) of the said Act is repealed and the following substituted therefor:

(1) The court may cause any question of fact arising in any proceeding to be tried by a jury.

Trial of  
questions of  
fact by a  
jury

(13) Section 32 of the said Act is repealed.

(14) Subsection 33 (1) of the said Act is repealed and the following substituted therefor:

(1) Any party or person taking part in a proceeding under this Act may appeal to the Divisional Court from an order, determination or judgment of the Ontario Court (General Division) if the value of the property affected by such order, determination or judgment exceeds \$200.

Right of  
appeal

(15) Subsections 33 (4), (5) and (6) of the said Act are repealed.

(16) Section 34 of the said Act is repealed.



(17) Section 44 of the said Act is amended by striking out “surrogate court” in the sixth line and inserting in lieu thereof “office of the Ontario Court (General Division)”.

(18) Section 45 of the said Act is repealed and the following substituted therefor:

Where  
application  
filed in more  
than one  
office

**45.** If it appears by the certificate of the Estate Registrar for Ontario that application for probate or administration has been filed in two or more court offices, the proceedings shall be stayed until, on motion, a judge of the Ontario Court (General Division) determines where the application will proceed.

(19) Section 60 of the said Act is amended by striking out “judge of the court for the time being, or in case of the separation of counties, to enure for the benefit of any judge of a surrogate court to be named by the Supreme Court for that purpose” in the fifth, sixth, seventh and eighth lines and inserting in lieu thereof “Accountant of the Ontario Court”.

(20) Subsection 74 (1) of the said Act is repealed.

(21) Subsection 74 (3) of the said Act is repealed and the following substituted therefor:

Powers of  
judge on  
passing  
accounts

(3) The judge, on passing the accounts of an executor, administrator or trustee under a will of which the trustee is an executor, has jurisdiction to enter into and make full inquiry and accounting of and concerning the whole property that the deceased was possessed of or entitled to, and its administration and disbursement.

(22) Subsection 74 (6) of the said Act is repealed.

(23) Section 78 of the said Act is repealed.

(24) Section 80 of the said Act, as re-enacted by the Statutes of Ontario, 1984, chapter 11, section 215, is repealed.

(25) The title to the *Surrogate Courts Act* is repealed and the following substituted therefor:

#### ESTATES ACT

**49.—**(1) Section 1 of the *Territorial Division Act*, being chapter 497 of the Revised Statutes of Ontario, 1980, as amended by the Statutes of Ontario, 1982, chapter 57, section 4, is further amended by striking out “5, 5a, 6, 7 and 8 for municipal and judicial purposes such counties, and for judicial

purposes such districts and metropolitan and regional areas, are respectively” in the third, fourth, fifth and sixth lines and inserting in lieu thereof “and 5, for municipal purposes such counties are”.

(2) Paragraph 2 of section 1 of the said Act is amended by striking out the following sentences at the end thereof:

“The Indian Reserve at Cape Croker shall, for judicial purposes, be deemed part of the Township of Albemarle.

“The Indian Reserve at Chief’s Point and the Saugeen Indian Reserve north of the mouth of the Saugeen River shall, for judicial purposes, be deemed part of the Township of Amabel”.

(3) Paragraph 42 of the said section 1 is amended by striking out “The Territorial District of Algoma forms the Provisional Judicial District of Algoma” in the seventh and eighth lines from the end thereof.

(4) Paragraph 43 of the said section 1 is amended by striking out “The Territorial District of Cochrane forms the Provisional Judicial District of Cochrane” at the end thereof.

(5) Paragraph 44 of the said section 1 is amended by striking out “The Territorial District of Kenora forms the Provisional Judicial District of Kenora” at the end thereof.

(6) Paragraph 45 of the said section 1 is amended by striking out “The Territorial District of Manitoulin forms the Provisional Judicial District of Manitoulin” at the end thereof.

(7) Paragraph 46 of the said section 1 is amended by striking out “The District Municipality of Muskoka forms the Provisional Judicial District of Muskoka” at the end thereof.

(8) Paragraph 47 of the said section 1 is amended by striking out “The Territorial District of Nipissing forms the Provisional Judicial District of Nipissing” at the end thereof.

(9) Paragraph 48 of the said section 1 is amended by striking out “The Territorial District of Parry Sound forms the Provisional Judicial District of Parry Sound” at the end thereof.

(10) Paragraph 49 of the said section 1 is amended by striking out “The Territorial District of Rainy River forms the Provisional Judicial District of Rainy River” at the end thereof.

(11) Paragraph 50 of the said section 1, as amended by the Statutes of Ontario, 1986, chapter 52, section 1, is further amended by striking out "The Territorial District of Sudbury forms the Provisional Judicial District of Sudbury" at the end thereof.

(12) Paragraph 51 of the said section 1 is amended by striking out "The Territorial District of Thunder Bay forms the Provisional Judicial District of Thunder Bay" at the end thereof.

(13) Paragraph 52 of the said section 1 is amended by striking out "The Territorial District of Timiskaming forms the Provisional Judicial District of Timiskaming" at the end thereof.

(14) Subsection 4 (1) of the said Act is amended by striking out "judicial" in the first line.

(15) Subsection 4 (2) of the said Act is amended by striking out "courts" in the fourth line.

(16) Section 5 of the said Act is repealed and the following substituted therefor:

Cities and  
towns

5. For municipal purposes, cities, towns and other municipalities withdrawn from the jurisdiction of a county do not form part of the counties in which they are respectively situate.

(17) Section 5a of the said Act, as enacted by the Statutes of Ontario, 1982, chapter 57, section 4, is repealed.

(18) Sections 6, 7 and 8 of the said Act are repealed.

(19) Clause 15 (b) of the said Act is amended by striking out "or provisional judicial district" in the first and second lines.

50. Subsection 13 (2) of the *Tobacco Tax Act*, being chapter 502 of the Revised Statutes of Ontario, 1980, is amended by striking out "Registrar of the Supreme Court or with the local registrar of the Supreme Court" in the fourth and fifth lines and inserting in lieu thereof "local registrar of the Ontario Court (General Division)".

51. Subsection 27 (1) of the *Vital Statistics Act*, being chapter 524 of the Revised Statutes of Ontario, 1980, is amended by striking out "The Registrar of the Supreme Court and every local registrar of the Supreme Court" in the first and second



lines and inserting in lieu thereof “Every local registrar of the Ontario Court (General Division)”.

**52.**—(1) Subsection 10 (1) of the *Woodmen’s Lien for Wages Act*, being chapter 537 of the Revised Statutes of Ontario, 1980, is amended by striking out “\$1,000” in the third line and in the sixth line and inserting in lieu thereof in each instance “the monetary jurisdiction of the Small Claims Court”.

(2) Section 16 of the said Act is amended by striking out “\$1,000” in the first line and inserting in lieu thereof “the monetary jurisdiction of the Small Claims Court”.

(3) Subsection 17 (1) of the said Act is amended by striking out “\$1,000” in the first line and inserting in lieu thereof “the monetary jurisdiction of the Small Claims Court”.

**53.** Section 116 of the *Workers’ Compensation Act*, being chapter 539 of the Revised Statutes of Ontario, 1980, is amended by striking out “\$1,000” in the ninth line and inserting in lieu thereof “the monetary jurisdiction of the Small Claims Court”.

**54.** This Act comes into force on a day to be named by proclamation of the Lieutenant Governor. Commence-  
ment

**55.** The short title of this Act is the *Court Reform Statute Law Amendment Act, 1989*. Short title









# Bill 4

## **An Act to amend the Metropolitan Toronto Police Force Complaints Act, 1984**

The Hon. I. Scott  
*Attorney General*

*1st Reading*      November 4th, 1987  
*2nd Reading*  
*3rd Reading*  
*Royal Assent*

*Continued from the 1st Session by an Order of the  
Legislative Assembly of March 2nd, 1989.*



## EXPLANATORY NOTES

The purpose of the Bill is to permit the extension of the police complaints procedure to municipalities other than Metropolitan Toronto on the request of the municipality.

**SECTIONS 1 and 2.** The amendments to the definitions adjust the terminology so that it is not confined to Metropolitan Toronto but can apply to any municipality to which the Act applies. The Commissioner's title is changed from "Public Complaints Commissioner" to "Police Complaints Commissioner".

**SECTION 3.** The new section authorizes municipalities to adopt by-laws requesting the Lieutenant Governor in Council to designate them by regulation (under clause 31 (ca) of the Act, as enacted by section 16 of the Bill). A regulation may only be made where such a by-law is passed.

**SECTIONS 4 to 7.** The amendments make no change in substance except to refer to all designated municipalities.

**SECTION 8.** Under existing section 11 of the Act the report of the Bureau's investigation is given to certain persons. The amendment would provide that the result of a further investigation by the chief of police on the request of the Commissioner be given to the same persons.

**SECTION 9.** Existing section 14 authorizes the chief of police to delegate to an officer of the rank of inspector or higher. The amendment permits the delegation to be to a senior officer where the police force does not have the rank of inspector.

**SECTION 10.** The amendment removes any doubt that the appeal from the decision of a chief of police on a disciplinary hearing is to be taken under the *Metropolitan Toronto Police Force Complaints Act, 1984* and not the *Police Act*.

**SECTIONS 11 to 15.** See explanatory note for sections 4 to 7 (except for subsection 13 (1)).

Clause 23 (2) (b) of the Act makes the Attorney General a party to hearings before a board of inquiry, except when the hearing is in respect of a penalty imposed on an officer. The amendment in subsection 13 (1) ensures that the Attorney General is not excluded from participating where the officer's hearing is combined with the complainant's hearing.

**SECTION 16.** The amendment authorizes a municipality to be designated by regulation where it has passed a by-law requesting the designation.

**SECTION 17.** The short title of the Act is amended to remove specific reference to the Metropolitan Police Force.

## Bill 4

1989

## An Act to amend the Metropolitan Toronto Police Force Complaints Act, 1984

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

**1.—(1) Clauses 1 (a) and (b) of the *Metropolitan Toronto Police Force Complaints Act, 1984*, being chapter 63, are repealed and the following substituted therefor:**

(a) “Bureau” means a Public Complaints Investigation Bureau established under section 5.

(2) Clause 1 (c) of the said Act is amended by striking out “Public” in the first line and inserting in lieu thereof “Police”.

(3) Section 1 of the said Act is amended by adding thereto the following clause:

(ea) “designated municipality” means The Municipality of Metropolitan Toronto and the municipalities that are designated by a regulation made under clause 31 (ca).

(4) Clause 1 (i) of the said Act is repealed and the following substituted therefor:

(i) “police association” means the association as defined in the *Police Act* for the police force of a designated municipality. R.S.O. 1980,  
c. 381

(5) Section 1 of the said Act is further amended by adding thereto the following subsection:

(2) A reference in this Act to a police officer, chief of police, police force, Bureau, board of inquiry or panel for boards of inquiry means the one appointed or established for the designated municipality that the subject officer serves. References to  
local bodies

**2. Section 2 of the said Act is amended by striking out "Metropolitan Police Force" in the third line and inserting in lieu thereof "police force of a designated municipality".**

**3. The said Act is amended by adding thereto the following section:**

By-laws to  
request  
application  
of Act  
R.S.O. 1980,  
c. 381

**2a.—(1)** The council of a municipality that maintains a police force other than by agreement under section 64 of the *Police Act* may, by by-law, request the Lieutenant Governor in Council to designate the municipality as one to which this Act applies.

Idem

(2) The council of a municipality that maintains a police force by agreement under section 63 of the *Police Act* may pass a by-law under subsection (1) only if the municipality providing the services is a designated municipality.

**4.—(1)** Subsection 3 (1) of the said Act is amended by striking out "Public" in the second line and inserting in lieu thereof "Police".

(2) Section 3 of the said Act is amended by adding thereto the following subsections:

Local offices

(6a) The Commissioner shall establish a local office in each designated municipality.

Communi-  
cation to  
Commis-  
sioner by  
local office

(6b) Any matter or thing that is required or permitted by this Act to be given to or served upon the Commissioner shall be given or served at the local office of the Commissioner.

**5. Section 4 of the said Act, as amended by the Statutes of Ontario, 1986, chapter 31, section 1, is repealed and the following substituted therefor:**

Panels for  
boards of  
inquiry

**4.—(1)** The Lieutenant Governor in Council shall appoint a panel of persons for each designated municipality to act as members of boards of inquiry.

Recommen-  
dations for  
appointment

(2) One-third of the members of the panel shall be persons who are members of the Law Society of Upper Canada who are jointly recommended for appointment by the Attorney General and the Solicitor General.

Idem

(3) One-third of the members of the panel shall be persons, other than police officers, who are jointly recommended for appointment by the board of commissioners of police of the designated municipality, or, where there is no board, the council, and by the police association, if any.



(4) If the joint recommendations referred to in subsection (3) are not submitted to the Attorney General in writing within the time that the Attorney General may specify, one-third of the members of the panel shall be persons, other than police officers and members of the Law Society of Upper Canada, who are jointly recommended for appointment by the Attorney General and the Solicitor General.

Failure to make joint recommendations

(5) Before making the recommendation referred to in subsection (4), the Attorney General and Solicitor General shall consider any recommendations made by the board of commissioners of police or council alone or the police association alone.

Individual recommendations to be considered

(6) One-third of the members of the panel shall be persons recommended for appointment by the council of the designated municipality.

Recommendations for appointment

(7) If the recommendations referred to in subsection (6) are not submitted to the Attorney General in writing within the time that the Attorney General may specify, one-third of the members of the panel shall be persons, other than members of the Law Society of Upper Canada, who are jointly recommended for appointment by the Attorney General and the Solicitor General.

Failure to make recommendations

(8) Appointments to the panel shall be for a term of two years and a person who is appointed may be reappointed for a further term or terms not exceeding, in each instance, two years.

Term

(9) A member of the panel whose term expires without reappointment continues in office for the purpose of completing the work of a board of inquiry to which the member was assigned before the expiration of the term.

Continuance in office for uncompleted assignments

(10) Notwithstanding subsection 34 (1), the members of the Police Complaints Board, except the chairman, constituted under the *Metropolitan Police Force Complaints Project Act, 1981* shall act as members of boards of inquiry under this Act until such time as the panel referred to in subsection (1) is appointed and members of the Police Complaints Board appointed from the groups set out in subsections 4 (4), (5) and (6), respectively, of the *Metropolitan Police Force Complaints Project Act, 1981* shall be deemed to be recommended under subsections (2), (3) and (6) of this section, respectively.

Members of Police Complaints Board under 1981, c. 43

(11) The members of the panel shall be paid such remuneration and expenses as may be fixed by the Lieutenant Governor in Council.

Remuneration



**6.** Subsection 5 (1) of the said Act is amended by striking out "Metropolitan Police Force" in the second and third lines and inserting in lieu thereof "police force".

**7.** Subsection 6 (1) of the said Act is amended by striking out "Metropolitan Toronto" in the second line and inserting in lieu thereof "the designated municipality".

**8.** Subsection 11 (6) of the said Act is amended by adding at the end thereof "the chief of police, the complainant and the subject officer".

**9.** Subsection 14 (7) of the said Act is amended by inserting after "higher" in the second line "or, if none, a senior officer who is not a member of the police association".

**10.** Section 16 of the said Act is amended by striking out "the officer may appeal" in the third line and inserting in lieu thereof "any appeal therefrom shall be taken".

**11.** Section 21 of the said Act is repealed and the following substituted therefor:

Report

**21.**—(1) Where, after making a review, the Commissioner is of the opinion that a police practice or procedure should be altered, the Commissioner shall report the opinion and any recommendations to the board of commissioners of police of the designated municipality or, where there is no board, the council, to the chief of police and to the police association, if any.

Idem

(2) Where, as a result of any matter dealt with under this Act, the Commissioner is of the opinion that a practice or procedure or law affecting the resolution or prevention of public complaints should be altered or implemented, the Commissioner shall report the opinion and any recommendations to the board of commissioners of police of the designated municipality or, where there is no board, the council, to the chief of police and to the police association, if any.

Idem

(3) Within ninety days of receiving a report under subsection (1) or (2), the board of commissioners of police or council, as the case may be, shall forward the report along with their comments and any comments submitted to them by the chief of police or the police association, to the Attorney General, the Solicitor General and the Commissioner.

**12.** Subsection 22 (5) of the said Act is amended by inserting after "subsection 4 (3)" in the fifth line "or (4), as the case

may be" and by striking out "4 (4)" in the seventh line and inserting in lieu thereof "4 (6) or (7), as the case may be".

13.—(1) Clause 23 (2) (b) of the said Act is amended by striking out "where an appeal" in the first line and inserting in lieu thereof "in respect of an appeal that".

(2) Clause 23 (17) (a) of the said Act is amended by striking out "Metropolitan Police Force" in the first and second lines and inserting in lieu thereof "police force".

(3) Clause 23 (17) (b) of the said Act is amended by striking out "Metropolitan Police Force" in the first and second lines and inserting in lieu thereof "police force".

(4) Subsection 23 (20) of the said Act is amended by striking out "Metropolitan Board of Commissioners of Police" in the first line and inserting in lieu thereof "board of commissioners of police for the designated municipality or, where there is no board, the council".

14. Subsection 26 (1) of the said Act is amended by striking out "Metropolitan Police Force" in the second and third lines and inserting in lieu thereof "police force".

15. Section 29 of the said Act is amended by striking out "The Municipality of Metropolitan Toronto" in the second and third lines and inserting in lieu thereof "a designated municipality".

16. Section 31 of the said Act is amended by adding thereto the following clause:

(ca) designating a municipality that has passed a by-law under section 2a as a municipality to which this Act applies.

17. Section 36 of the said Act is repealed and the following substituted therefor:

36. The short title of this Act is the *Police Force Complaints Act, 1984*. Short title

18. This Act comes into force on the day it receives Royal Assent. Commence-  
ment

19. The short title of this Act is the *Metropolitan Toronto Police Force Complaints Amendment Act, 1989*. Short title



# Bill 5

## **An Act to amend the Education Act**

**The Hon. C. Ward**  
*Minister of Education*

---

*1st Reading*      May 1st, 1989  
*2nd Reading*  
*3rd Reading*  
*Royal Assent*

---



#### EXPLANATORY NOTE

The Bill provides the Minister with the power to make regulations to require boards of education to establish and operate programs in languages other than French and English.

**Bill 5****1989****An Act to amend the Education Act**

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

**1.** Subsection 10 (1) of the *Education Act*, being chapter 129 of the Revised Statutes of Ontario, 1980, as amended by the Statutes of Ontario, 1982, chapter 32, section 4, 1989, chapter 1, section 2 and 1989, chapter 2, section 2, is further amended by adding thereto the following paragraph:

34. requiring boards to offer programs that deal with languages other than English or French and governing the establishment and operation of such programs.

**2.** This Act comes into force on the day it receives Royal Assent. Commence-  
ment

**3.** The short title of this Act is the *Education Amendment Act, 1989*. Short title



# Bill 5

*(Chapter 33  
Statutes of Ontario, 1989)*

## **An Act to amend the Education Act**

The Hon. C. Ward  
*Minister of Education*

<i>1st Reading</i>	May 1st, 1989
<i>2nd Reading</i>	June 6th, 1989
<i>3rd Reading</i>	July 13th, 1989
<i>Royal Assent</i>	July 13th, 1989





**Bill 5****1989****An Act to amend the Education Act**

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

**1.** Subsection 10 (1) of the *Education Act*, being chapter 129 of the Revised Statutes of Ontario, 1980, as amended by the Statutes of Ontario, 1982, chapter 32, section 4, 1989, chapter 1, section 2 and 1989, chapter 2, section 2, is further amended by adding thereto the following paragraph:

34. requiring boards to offer programs that deal with languages other than English or French and governing the establishment and operation of such programs.

**2.** This Act comes into force on the day it receives Royal Assent. Commence-  
ment

**3.** The short title of this Act is the *Education Amendment Act, 1989*. Short title

# THE HISTORY OF THE

## REIGN OF KING

CHARLES THE FIRST

BY

JOHN BURNET

OF THE UNIVERSITY OF OXFORD

IN TWO VOLUMES

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# Bill 6

## **An Act to amend certain Statutes to create Heritage Day and Civic Holiday as Public Holidays**

Mr. Fleet

---

*1st Reading*      May 4th, 1989  
*2nd Reading*  
*3rd Reading*  
*Royal Assent*

---



#### EXPLANATORY NOTE

The purpose of the Bill is to establish a new holiday in February to celebrate Heritage Day and to give official holiday status to Civic Holiday, the first Monday in August.

The Bill also gives the Lieutenant Governor in Council the power to proclaim that aspect of Canadian or Ontario heritage that will be celebrated each year.

## Bill 6

1989

**An Act to amend certain Statutes to create  
Heritage Day and Civic Holiday as Public Holidays**

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

**1. Clause 1 (l) of the *Employment Standards Act*, being chapter 137 of the Revised Statutes of Ontario, 1980, as amended by the Statutes of Ontario, 1989, chapter 4, section 1, is repealed and the following substituted therefor:**

- (l) "public holiday" means New Year's Day, Heritage Day, being the third Monday in February in each year, Good Friday, Victoria Day, Canada Day, Civic Holiday, being the first Monday in August in each year, Labour Day, Thanksgiving Day and Christmas Day.

**2. Clause 1 (1) (a) of the *Retail Business Holidays Act*, being chapter 453 of the Revised Statutes of Ontario, 1980, as re-enacted by the Statutes of Ontario, 1989, chapter 3, section 1, is amended by adding thereto the following subclauses:**

- (ia) Heritage Day, being the third Monday in February in each year,

. . . . .

- (iva) Civic Holiday, being the first Monday in August in each year.

**3. Paragraph 11 of section 30 of the *Interpretation Act*, being chapter 219 of the Revised Statutes of Ontario, 1980, is amended by striking out "Dominion Day" in the fifth line and inserting in lieu thereof "Heritage Day, being the third Monday in February in each year, Canada Day, Civic Holiday, being the first Monday in August in each year".**

## Proclamation

**4.** The Lieutenant Governor in Council may by proclamation establish the particular aspect of the heritage of Canada or Ontario to be commemorated each year on Heritage Day.

## Commencement

**5.** This Act comes into force on the day it receives Royal Assent.

## Short title

**6.** The short title of this Act is the *Public Holidays Statute Law Amendment Act, 1989*.

# Bill 7

## An Act respecting Heritage Day

Mr. McLean

*1st Reading*      May 4th, 1989

*2nd Reading*

*3rd Reading*

*Royal Assent*



#### EXPLANATORY NOTE

The purpose of the Bill is to name the third Monday in the month of February "Heritage Day" and to designate this day as a holiday in the Province of Ontario.

**Bill 7****1989****An Act respecting Heritage Day**

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. Where the third Monday in the month of February in any year is proclaimed a public holiday in a municipality, the name of the holiday shall be Heritage Day. Heritage Day
2. Any Act, regulation, proclamation, contract or document that refers to a public holiday on the third Monday in the month of February shall be deemed to refer to Heritage Day. Other references
3. This Act comes into force on the day it receives Royal Assent. Commencement
4. The short title of this Act is the *Heritage Day Act, 1989*. Short title



# Bill 8

## **An Act to provide for the Licensing of Motor Boat Operators**

Mr. McLean

---

*1st Reading*      May 8th, 1989

*2nd Reading*

*3rd Reading*

*Royal Assent*



### EXPLANATORY NOTES

The Bill, which applies only in respect of motor boats propelled by engines of at least twenty-five horsepower, prohibits the operation of such a motor boat by any person who does not have a motor boat operator's licence.

The Bill requires every person to carry a motor boat operator's licence while operating a motor boat to which the Bill applies and to produce it when requested to do so by a police officer. If unable or unwilling to produce the licence, the motor boat operator is required to give the police officer his or her correct name and address.

The Bill creates the offences of careless operation of a motor boat and impaired operation of a motor boat.

A person who contravenes any of the provisions of the Bill or certain regulations made under the Bill is liable to pay a fine not exceeding \$1,000 and, in some cases, to have his or her motor boat operator's licence suspended or revoked.

Bill 8

1989

## An Act to provide for the Licensing of Motor Boat Operators

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

### 1. In this Act,

Definitions

“Minister” means the Minister of Transportation;

“prescribed” means prescribed by the regulations;

“regulations” means the regulations made under this Act.

2. This Act applies only in respect of motor boats propelled by engines of at least twenty-five horsepower.

Application

### 3. No person shall operate a motor boat unless,

Where  
licence  
required

(a) he or she has a licence issued under subsection 4 (1); or

(b) he or she is a resident of another province, country or state and has a licence issued by that province, country or state authorizing the operation of a motor boat.

4.—(1) The Minister or any person authorized in writing by the Minister shall issue a motor boat operator's licence to any person who applies in accordance with the regulations, pays the prescribed fee, and,

Issuance of  
licences

(a) is at least twelve years of age and has successfully completed a motor boat operation course in accordance with the regulations; or

(b) is at least sixteen years of age and has successfully completed a written examination in accordance with the regulations.

Idem	(2) A person who is authorized by the Minister under subsection (1) to issue licences may retain, from the fee paid in respect of each licence issued, an amount that is approved in writing by the Minister.
Definition	<b>5.—</b> (1) In this section, “licence” means, <ul style="list-style-type: none"><li>(a) a licence issued under subsection 4 (1); or</li><li>(b) with respect to a resident of another province, country or state, a licence issued by that province, country or state authorizing the operation of a motor boat.</li></ul>
Operator to carry licence	(2) Every person shall carry his or her licence at all times while operating a motor boat and shall produce it when requested to do so by a police officer.
Operator to identify self	(3) Every person who is unable or refuses to produce a licence in accordance with subsection (2) shall give his or her correct name and address to the police officer upon request.
Arrest without warrant	(4) A police officer who on reasonable and probable grounds believes that a person has contravened subsection (3) may arrest the person without warrant.
Careless operation	<b>6.—</b> (1) No person shall operate a motor boat without due care and attention or without reasonable consideration for others.
Impaired operation	(2) No person whose ability to operate a motor boat is impaired by alcohol or a drug shall operate a motor boat.
Offences and fines	<b>7.—</b> (1) Every person who contravenes section 3, 5 or 6 or a regulation made under clause 8 (d) is guilty of an offence and on conviction is liable to a fine not exceeding \$1,000.
Suspension and revocation of licences	(2) In addition to any fine that may be imposed under subsection (1), the licence of any person who is convicted of contravening section 5 or 6 or a regulation made under clause 8 (d) may be suspended for a period of up to two years or may be revoked.
Regulations	<b>8.</b> The Lieutenant Governor in Council may make regulations, <ul style="list-style-type: none"><li>(a) providing for the periodic expiry and renewal of motor boat operators' licences;</li></ul>

- (b) establishing procedures for obtaining or renewing motor boat operators' licences;
- (c) prescribing fees for the issuance or renewal of motor boat operators' licences;
- (d) designating classes of motor boats that may not be operated by persons under sixteen years of age;
- (e) respecting motor boat operation courses to be completed by applicants for motor boat operators' licences who are under the age of sixteen;
- (f) respecting written examinations to be completed by applicants for motor boat operators' licences who are at least sixteen years of age.

**9.** This Act comes into force on the day it receives Royal Assent. Commence-  
ment

**10.** The short title of this Act is the *Motor Boat Operators' Licensing Act, 1989*. Short title









# Bill 9

## **An Act to amend certain Statutes to create Heritage Day and Civic Holiday as Public Holidays**

Mr. Fleet

*1st Reading*      May 10th, 1989

*2nd Reading*

*3rd Reading*

*Royal Assent*



#### EXPLANATORY NOTE

The purpose of the Bill is to establish a new holiday in February to celebrate Heritage Day and to give official holiday status to Civic Holiday, the first Monday in August.

The Bill also gives the Lieutenant Governor in Council the power to proclaim that aspect of Canadian or Ontario heritage that will be celebrated each year.

## Bill 9

1989

**An Act to amend certain Statutes to create  
Heritage Day and Civic Holiday as Public Holidays**

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

**1. Clause 1 (l) of the *Employment Standards Act*, being chapter 137 of the Revised Statutes of Ontario, 1980, as amended by the Statutes of Ontario, 1989, chapter 4, section 1, is repealed and the following substituted therefor:**

- (l) "public holiday" means New Year's Day, Heritage Day, being the third Monday in February in each year, Good Friday, Victoria Day, Canada Day, Civic Holiday, being the first Monday in August in each year, Labour Day, Thanksgiving Day, Christmas Day and the 26th day of December.

**2. Clause 1 (1) (a) of the *Retail Business Holidays Act*, being chapter 453 of the Revised Statutes of Ontario, 1980, as re-enacted by the Statutes of Ontario, 1989, chapter 3, section 1, is amended by adding thereto the following subclauses:**

- (ia) Heritage Day, being the third Monday in February in each year,

. . . . .

- (iva) Civic Holiday, being the first Monday in August in each year.

**3. Paragraph 11 of section 30 of the *Interpretation Act*, being chapter 219 of the Revised Statutes of Ontario, 1980, is amended by striking out "Dominion Day" in the fifth line and inserting in lieu thereof "Heritage Day, being the third Monday in February in each year, Canada Day, Civic Holiday, being the first Monday in August in each year".**

## Proclamation

**4.** The Lieutenant Governor in Council may by proclamation establish the particular aspect of the heritage of Canada or Ontario to be commemorated each year on Heritage Day.

Commence-  
ment

**5.** This Act comes into force on the day it receives Royal Assent.

## Short title

**6.** The short title of this Act is the *Public Holidays Statute Law Amendment Act, 1989*.

# Bill 10

## An Act to control Automobile Insurance Rates

The Hon. M. Elston  
*Minister of Financial Institutions*

*1st Reading*      May 11th, 1989  
*2nd Reading*  
*3rd Reading*  
*Royal Assent*



#### EXPLANATORY NOTE

The purpose of the Bill is set out in the Preamble.

## Bill 10

1989

## An Act to control Automobile Insurance Rates

Whereas, pending the completion of the review of alternative insurance products, it is desirable that legislation be enacted to control premiums, as provided in this Act;

Preamble

Therefore, Her Majesty, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

## 1.—(1) In this Act,

Definitions

“automobile insurance” has the same meaning as in section 1 of the *Insurance Act*, except that it does not include insurance for any motor vehicle or trailer that may be operated legally on a highway without a permit issued under section 7 of the *Highway Traffic Act* other than a motorized snow vehicle;

R.S.O. 1980,  
cc. 218, 198

“Board” means the Ontario Automobile Insurance Board;

“capped rate”, means, in respect of a coverage under a contract of automobile insurance, the lesser of,

- (a) the premium that would have been charged for the coverage for comparable risks for a term commencing on the 17th day of April, 1989 had the premium been calculated using the rules, procedures and factors used by the insurer on that date, plus an amount equal to 7.6 per cent of that premium,
- (b) the premium that would be charged for the coverage for comparable risks using the Facility Association rate in effect at the beginning of the term of the contact;

“Facility Association rate” means the premium for a coverage determined under the Plan of Operation of the Facility Association under the *Compulsory Automobile Insurance Act*;

R.S.O. 1980,  
c. 83

R.S.O. 1980, c. 218 “insurer” means an insurer licensed under the *Insurance Act* and carrying on the business of automobile insurance but does not include an insurer whose licence is limited to contracts of reinsurance;

“regulations” means the regulations made under this Act.

Facility  
Association  
R.S.O. 1980,  
c. 83

(2) The Facility Association established under the *Compulsory Automobile Insurance Act* shall be deemed to be a person for the purposes of this Act and any proceeding before the Board or a court under this Act may be instituted by or against it in its own name.

Rates capped

**2.**—(1) Except as permitted by the regulations, no insurer shall charge any premium for a coverage under a contract of automobile insurance the term of which commences after the 31st day of May, 1989 that exceeds the capped rate for the coverage.

Idem

(2) Except as permitted by this Act or the regulations, the Facility Association shall not increase the Facility Association rate in respect of any coverage.

Function of  
Board

**3.** The Board shall monitor for compliance with this Act.

Information

**4.**—(1) An insurer shall make a return to the Board, in such form and at such times as the Board may require, showing such information with respect to rates charged by the insurer in relation to contracts of automobile insurance together with such other information concerning such rates and contracts as the Board may require.

Idem

(2) Every return under subsection (1) shall be verified by the statutory declaration of an officer of the insurer and the declaration shall be in such form as the Board may specify.

Application  
of 1988,  
c. 18,  
ss. 2-18

**5.**—(1) Sections 2 to 18 of the *Ontario Automobile Insurance Board Act, 1988* apply with necessary modifications to matters arising under this Act.

Non-appli-  
cation of  
1988, c. 18,  
s. 33

(2) Section 33 of the *Ontario Automobile Insurance Board Act, 1988* ceases to have effect until a day to be named by proclamation of the Lieutenant Governor.

Board orders

(3) The orders of the Board issued the 1st day of February, 1989, the 13th day of February, 1989 and the 16th day of March, 1989 shall not take effect.

Facility  
Association  
rate

**6.**—(1) The Facility Association may increase the Facility Association rate in respect of any coverage under contracts of

automobile insurance by an amount not exceeding 7.6 per cent of the Facility Association rate in effect on the 17th day of April, 1989.

(2) The Facility Association shall file all rates that are increased under subsection (1) with the Board before the rates take effect. Filing

(3) A rate increase under this section may apply only to contracts of automobile insurance, the terms of which commence after the 31st day of May, 1989. Effective date

7.—(1) Every person who contravenes or fails to comply with this Act, the regulations or an order of the Board is guilty of an offence and on conviction is liable to a fine of not more than \$25,000, in the case of an individual, and not more than \$100,000, in any other case. Offences and penalties

(2) If a corporation or the Facility Association contravenes or fails to comply with this Act, the regulations or an order of the Board, every officer or director thereof who authorizes, permits or acquiesces in the contravention is a party to and guilty of the offence and, on conviction, is liable to the penalty provided for the offence whether or not the corporation or Facility Association, as the case may be, has been prosecuted or convicted. Parties

(3) A prosecution for an offence under this Act shall not be instituted except with the consent in writing of the Board. Consent

(4) A prosecution for an offence under this Act shall not be instituted more than two years after the facts upon which the prosecution is based first came to the knowledge of the Board. Limitation period

8.—(1) The Lieutenant Governor in Council may make regulations, Regulations

(a) permitting insurers to increase their capped rates in accordance with the regulations;

(b) exempting insurers and the Facility Association from the requirements of this Act in respect of such categories of automobile insurance, such coverages or such classes of risk exposure as may be set out in the regulations;

(c) permitting the Facility Association to increase Facility Association rates in accordance with the regulations.



Idem (2) A regulation may be general or particular in its application.

Conflict with  
1988, c. 18

**9.** If there is a conflict between a provision of this Act or of a regulation and a provision of the *Ontario Automobile Insurance Board Act, 1988* or an order of the Board under that Act, the provision of this Act or of the regulation prevails.

Repeal

**10.** This Act is repealed on the earlier of,

(a) the 31st day of December, 1990; or

(b) a day to be named by proclamation of the Lieutenant Governor.

Commence-  
ment

**11.** This Act shall be deemed to have come into force on the 17th day of April, 1989.

Short title

**12.** The short title of this Act is the *Automobile Insurance Rates Control Act, 1989*.





# Bill 10

*(Chapter 34  
Statutes of Ontario, 1989)*

## **An Act to control Automobile Insurance Rates**

**The Hon. M. Elston**  
*Minister of Financial Institutions*

<i>1st Reading</i>	May 11th, 1989
<i>2nd Reading</i>	June 12th, 1989
<i>3rd Reading</i>	July 13th, 1989
<i>Royal Assent</i>	July 13th, 1989





## Bill 10

1989

**An Act to control Automobile Insurance Rates**

Whereas, pending the completion of the review of alternative insurance products, it is desirable that legislation be enacted to control premiums, as provided in this Act;

Preamble

Therefore, Her Majesty, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

**1.—(1) In this Act,**

Definitions

“automobile insurance” has the same meaning as in section 1 of the *Insurance Act*, except that it does not include insurance for any motor vehicle or trailer that may be operated legally on a highway without a permit issued under section 7 of the *Highway Traffic Act* other than a motorized snow vehicle;

R.S.O. 1980,  
cc. 218, 198

“Board” means the Ontario Automobile Insurance Board;

“capped rate”, means, in respect of a coverage under a contract of automobile insurance, the lesser of,

- (a) the premium that would have been charged for the coverage for comparable risks for a term commencing on the 17th day of April, 1989 had the premium been calculated using the rules, procedures and factors used by the insurer on that date, plus an amount equal to 7.6 per cent of that premium,
- (b) the premium that would be charged for the coverage for comparable risks using the Facility Association rate in effect at the beginning of the term of the contact;

“Facility Association rate” means the premium for a coverage determined under the Plan of Operation of the Facility Association under the *Compulsory Automobile Insurance Act*;

R.S.O. 1980,  
c. 83

R.S.O. 1980, c. 218 “insurer” means an insurer licensed under the *Insurance Act* and carrying on the business of automobile insurance but does not include an insurer whose licence is limited to contracts of reinsurance;

“regulations” means the regulations made under this Act.

Facility Association  
R.S.O. 1980, c. 83 (2) The Facility Association established under the *Compulsory Automobile Insurance Act* shall be deemed to be a person for the purposes of this Act and any proceeding before the Board or a court under this Act may be instituted by or against it in its own name.

Rates capped 2.—(1) Except as permitted by the regulations, no insurer shall charge any premium for a coverage under a contract of automobile insurance the term of which commences after the 31st day of May, 1989 that exceeds the capped rate for the coverage.

Idem (2) Except as permitted by this Act or the regulations, the Facility Association shall not increase the Facility Association rate in respect of any coverage.

Function of Board 3. The Board shall monitor for compliance with this Act.

Information 4.—(1) An insurer shall make a return to the Board, in such form and at such times as the Board may require, showing such information with respect to rates charged by the insurer in relation to contracts of automobile insurance together with such other information concerning such rates and contracts as the Board may require.

Idem (2) Every return under subsection (1) shall be verified by the statutory declaration of an officer of the insurer and the declaration shall be in such form as the Board may specify.

Application of 1988, c. 18, ss. 2-18 5.—(1) Sections 2 to 18 of the *Ontario Automobile Insurance Board Act, 1988* apply with necessary modifications to matters arising under this Act.

Non-application of 1988, c. 18, s. 33 (2) Section 33 of the *Ontario Automobile Insurance Board Act, 1988* ceases to have effect until a day to be named by proclamation of the Lieutenant Governor.

Board orders (3) The orders of the Board issued the 1st day of February, 1989, the 13th day of February, 1989 and the 16th day of March, 1989 shall not take effect.

Facility Association rate 6.—(1) The Facility Association may increase the Facility Association rate in respect of any coverage under contracts of

automobile insurance by an amount not exceeding 7.6 per cent of the Facility Association rate in effect on the 17th day of April, 1989.

(2) The Facility Association shall file all rates that are increased under subsection (1) with the Board before the rates take effect. Filing

(3) A rate increase under this section may apply only to contracts of automobile insurance, the terms of which commence after the 31st day of May, 1989. Effective date

**7.—**(1) Every person who contravenes or fails to comply with this Act, the regulations or an order of the Board is guilty of an offence and on conviction is liable to a fine of not more than \$25,000, in the case of an individual, and not more than \$100,000, in any other case. Offences and penalties

(2) If a corporation or the Facility Association contravenes or fails to comply with this Act, the regulations or an order of the Board, every officer or director thereof who authorizes, permits or acquiesces in the contravention is a party to and guilty of the offence and, on conviction, is liable to the penalty provided for the offence whether or not the corporation or Facility Association, as the case may be, has been prosecuted or convicted. Parties

(3) A prosecution for an offence under this Act shall not be instituted except with the consent in writing of the Board. Consent

(4) A prosecution for an offence under this Act shall not be instituted more than two years after the facts upon which the prosecution is based first came to the knowledge of the Board. Limitation period

**8.—**(1) The Lieutenant Governor in Council may make regulations, Regulations

(a) permitting insurers to increase their capped rates in accordance with the regulations;

(b) exempting insurers and the Facility Association from the requirements of this Act in respect of such categories of automobile insurance, such coverages or such classes of risk exposure as may be set out in the regulations;

(c) permitting the Facility Association to increase Facility Association rates in accordance with the regulations.



- Idem (2) A regulation may be general or particular in its application.
- Conflict with 1988, c. 18 **9.** If there is a conflict between a provision of this Act or of a regulation and a provision of the *Ontario Automobile Insurance Board Act, 1988* or an order of the Board under that Act, the provision of this Act or of the regulation prevails.
- Repeal **10.** This Act is repealed on the earlier of,  
(a) the 31st day of December, 1990; or  
(b) a day to be named by proclamation of the Lieutenant Governor.
- Commencement **11.** This Act shall be deemed to have come into force on the 17th day of April, 1989.
- Short title **12.** The short title of this Act is the *Automobile Insurance Rates Control Act, 1989*.





# Bill 11

**An Act to amend the  
Change of Name Act,  
1986**

Mr. Fleet

*1st Reading* May 11th, 1989  
*2nd Reading*  
*3rd Reading*  
*Royal Assent*

# Projet de loi 11

**Loi portant modification de la  
Loi de 1986 sur le  
changement de nom**

M. Fleet

*1<sup>re</sup> lecture* 11 mai 1989  
*2<sup>e</sup> lecture*  
*3<sup>e</sup> lecture*  
*sanction royale*



#### EXPLANATORY NOTE

The Act provides that when a spouse whose birth was registered in Ontario changes his or her surname as a result of marriage, his or her birth certificate is to be changed accordingly. The purpose of the Bill is to repeal that provision.

#### NOTE EXPLICATIVE

La loi prévoit que lorsqu'un conjoint dont la naissance a été enregistrée en Ontario change son nom de famille par suite d'un mariage, son certificat de naissance doit être modifié en conséquence. L'objet du projet de loi est d'abroger cette disposition.

**Bill 11****1989****An Act to amend the  
Change of Name Act, 1986**

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

**1. Clause 2 (1) (a) of the *Change of Name Act, 1986*, being chapter 7, is repealed and the following substituted therefor:**

- (a) a person whose birth is registered in Ontario is entitled to be recognized by,
  - (i) the name appearing on the person's change of name certificate, if the person's name has been changed under section 3 of this Act, or
  - (ii) in all other cases, the name appearing on the person's birth certificate or change of name certificate,

unless clause (c) applies.

**2. Subsection 3 (4) of the said Act is repealed and the following substituted therefor:**

Certificate

(4) On receiving the fee and documents, the Registrar General shall register the change of name and issue a change of name certificate to the person.

**3. Section 9 of the said Act is amended by striking out "new birth certificate" in the sixth line and inserting in lieu thereof "birth certificate showing the new name".**

Commence-  
ment

**4. This Act comes into force on the day it receives Royal Assent.**

Short title

**5. The short title of this Act is the *Change of Name Amendment Act, 1989*.**

**Projet de loi 11****1989****Loi portant modification de la  
Loi de 1986 sur le changement de nom**

SA MAJESTÉ, sur l'avis et avec le consentement de l'Assemblée législative de la province de l'Ontario, décrète ce qui suit :

**1** L'alinéa 2 (1) a) de la *Loi de 1986 sur le changement de nom*, qui constitue le chapitre 7, est abrogé et remplacé par ce qui suit :

a) la personne dont la naissance a été enregistrée en Ontario a le droit d'être connue :

(i) sous le nom qui figure dans son certificat de changement de nom, si le nom de la personne a été changé en vertu de l'article 3 de la présente loi,

(ii) sous le nom qui figure dans son certificat de naissance ou de changement de nom, dans tous les autres cas,

à moins que l'alinéa c) ne s'applique.

**2** Le paragraphe 3 (4) de cette loi est abrogé et remplacé par ce qui suit :

(4) Lorsqu'il reçoit les droits et les documents, le registraire général enregistre le changement de nom et délivre à la personne un certificat de changement de nom. Certificat

**3** L'article 9 de cette loi est modifié par substitution, aux mots «nouveau certificat de naissance» à la quatrième ligne, des mots «certificat de naissance dans lequel figure le nouveau nom».

**4** La présente loi entre en vigueur le jour où elle reçoit la sanction royale. Entrée en  
vigueur

**5** Le titre abrégé de la présente loi est *Loi de 1989 modifiant la Loi sur le changement de nom*. Titre abrégé









# Bill 12

## **An Act respecting Environmental Rights in Ontario**

Mrs. Grier

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*1st Reading*      May 15th, 1989  
*2nd Reading*  
*3rd Reading*  
*Royal Assent*

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## EXPLANATORY NOTE

The purpose of the Bill is to provide for environmental rights in Ontario. The Bill permits an action to be brought in the Supreme Court of Ontario by any person for the protection of the environment. The Bill also provides for public notice and review of certain approvals, permits or other environment-related orders before the approvals, permits or orders come into force, and for regular review by the Environmental Assessment Board of all regulations affecting the environment. In addition, the Bill prohibits an employer from dismissing an employee who reports to any person an act that contaminates or degrades the environment.

The Bill also amends the *Environmental Protection Act* to expand the scope of the protection provided to employees who refuse to pollute, by adding several statutes to the list set out in subsection 134b (2) of that Act.

Bill 12

1989

## An Act respecting Environmental Rights in Ontario

WHEREAS a healthy and sustainable environment is the basis of the health and well-being of the people of Ontario; Preamble

AND WHEREAS the environment of Ontario is under stress from contamination and degradation;

AND WHEREAS the people of Ontario face substantial obstacles to their ability to participate in environmental decision-making and to protect their common interest in a healthy and sustainable environment;

AND WHEREAS it is desirable to remove these obstacles and ensure the important role of the people of Ontario and their government in securing a healthy environment for present and future generations;

AND WHEREAS it is desirable to conserve and maintain the resources of the Province for the benefit of present and future generations;

Therefore, Her Majesty, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

### PART I

#### INTERPRETATION AND PURPOSE

##### 1. In this Act,

Definitions

"Board" means the Environmental Assessment Board established under the *Environmental Assessment Act*;

R.S.O. 1980,  
c. 140

"contaminant" means any solid, liquid, gas, odour, heat, sound, vibration, radiation or combination of any of them resulting directly or indirectly from the activities of people which may,

- (a) impair the quality of the environment or the public trust therein for any use that can be made of it,
- (b) cause injury or damage to property or to plant or animal life,
- (c) cause harm or material discomfort to any person,
- (d) adversely affect the health or impair the safety of any person,
- (e) render any property or plant or animal life unfit for use by people,
- (f) cause loss of enjoyment of normal use of property, or
- (g) interfere with the normal conduct of business,

and "contaminate" and "contamination" have corresponding meanings;

"Court" means the Supreme Court of Ontario;

"degradation" means any destruction or significant decrease in the quality of the environment or the public trust therein other than a change resulting from contamination and "degrade" has a corresponding meaning;

"environment" means,

- (a) air, land or water,
- (b) plant and animal life, including people,
- (c) the social, economic and cultural conditions that influence the life of people or a community,
- (d) any building, structure, machine or other device or thing made by people,
- (e) any solid, liquid, gas, odour, heat, sound, vibration or radiation resulting directly or indirectly from the activities of people, or
- (f) any part or combination of the foregoing and the inter-relationships between any two or more of them,

in or of Ontario;

“Minister” means the Minister of the Environment;

“public trust” means the collective interest of residents of the Province of Ontario in the quality of the environment and the protection thereof and the heritage therein for future generations;

“regulation” means a regulation made under an Act listed in the Schedule to this Act.

**2.** The purpose of this Act is to ensure the health and sustainability of the environment of Ontario and, in particular,

Purpose

- (a) to facilitate the participation of the people of Ontario in decisions affecting the environment and their ability to protect their common interest in a healthy and sustainable environment;
- (b) to recognize the right of the people of Ontario to an environment that is adequate for their health and well-being and sustainable into the future; and
- (c) to recognize the obligations of the Province of Ontario to conserve and maintain the resources of the Province for present and future generations.

**3.—(1)** The people of Ontario have a right to a healthy and sustainable environment, including clean air and water, to the conservation of the natural, scenic, historic and aesthetic values of the environment, and to the protection of ecosystems and biological diversity.

Environmental rights

(2) The Province of Ontario, as trustee of Ontario's public lands, waters and natural resources, shall conserve and maintain them for the benefit of present and future generations.

Idem

(3) It is hereby declared that it is in the public interest to provide every person with an adequate remedy to protect and conserve the environment and the public trust therein from contamination and degradation.

Declaration

**4.—(1)** A person who considers that the environment is being contaminated or degraded may in writing, specifying the nature of the contamination or degradation, request that the Minister investigate the alleged contamination or degradation.

Request for investigation

(2) Where the Minister receives a written request under subsection (1) and is satisfied that the request is made in good faith and is not frivolous, the Minister shall make, or cause to

Written request



be made, any investigation that he or she considers necessary of the alleged contamination or degradation, its source, its effect on the environment and of any advisable remedial action.

Report

(3) The Minister shall provide a copy of the report of the investigation to the person who requested the investigation within ninety days of the date of the request.

## PART II

### CAUSE OF ACTION

Right of  
action

**5.**—(1) If an activity has contaminated or degraded, or is likely to contaminate or degrade, the environment, any person may commence an action in the Court against any person who is responsible for the activity.

Idem

(2) Subsection (1) applies without any requirement that the person commencing the action allege or establish that there has been, is or will be an infringement of an approval, permit, licence, standard, regulation, rule or order established by or under an Act listed in the Schedule.

Court may  
determine  
standard

(3) In an action commenced under this section, if the activity complained of is not governed by a standard established under an Act listed in the Schedule, the Court may hear evidence as to the standard, if any, that should apply to the defendant, having regard to the purposes of this Act, and the Court may order the defendant to comply with such standard as it may determine.

Judicial  
review

(4) If an activity has contaminated or degraded, or is likely to contaminate or degrade, the environment, any person may apply for judicial review of the exercise or non-exercise of any power or the fulfilment or non-fulfilment of any duty conferred or imposed by any Act on the Minister of the Environment or any other Minister responsible for regulatory, fiscal or proprietary control of the activity.

Citizen suit

**6.**—(1) Any person may commence an action in the Court against any person who appears to be in violation of any Act listed in the Schedule or of any approval, permit, licence, standard, regulation, rule or order established under an Act listed in the Schedule.

Idem

(2) No action under subsection (1) shall be commenced if the responsible Ministry is diligently pursuing enforcement action against the potential defendant.

(3) Damages payable under this section shall be paid to the Government of Ontario. Idem

7. Any person may apply for judicial review under subsection 5 (4) or may bring an action to enforce the public's responsibility to protect the environment, including an action in nuisance or an action under section 5. Standing

8. In the trial of an action commenced under this Act, the Court shall not order the posting of security for costs in an amount in excess of \$1,000. Security for costs

9.—(1) If the activity of the defendant that is the subject-matter of an action is not governed by a standard established under an Act listed in the Schedule or under subsection 5 (3) and if the plaintiff has established that the activity of the defendant has contaminated or degraded, or is likely to contaminate or degrade, the quality of the environment, the onus shall be on the defendant to establish that there is no feasible and prudent alternative to the activity and that such activity is in the best interests of the public having regard to the purposes of this Act. Onus

(2) It shall be a defence to an action commenced under this Act that the activity of the defendant is authorized by a standard established by or under an Act listed in the Schedule unless the plaintiff can establish, on a balance of probabilities, that the activity has caused, or is likely to cause, severe or irreparable contamination or degradation to the environment. Defence

(3) It shall not be a defence to an action commenced under this Act that, Prohibited defences

(a) the defendant is not the sole cause of the alleged or potential contamination or degradation; or

(b) it cannot be established that the contaminant which the defendant discharged or deposited or permitted to be discharged or deposited was the cause, in fact, of the contamination or degradation of the environment or the public trust therein, if the effect on the environment is of a nature consistent with the contaminant or source of degradation being a cause.

10. In an action commenced under this Act, if it has been established that the activity of the defendant has contaminated or degraded, or is likely to contaminate or degrade, the environment, the Court may grant either an interim or permanent injunction, order the defendant to remedy any damage caused by the defendant's activity, award damages, impose conditions Injunction, etc.

on the defendant or make such other order as the Court may consider is necessary.

Reference

**11.**—(1) The Court may, on the motion of any party or on its own motion, refer any question, except the final determination of the issue, to the Board and the Court may also grant an interim injunction or such other temporary relief as the Court considers necessary for the protection of the environment or the public trust therein pending final determination of the issue.

Order

(2) When the Board has completed its review and consideration of the question referred to it under subsection (1), the Board shall make recommendations concerning the matter in question to the Court, and the Court shall review the recommendations and make such order as it considers appropriate under section 10.

Expert

**12.**—(1) In any action under this Act, the Court may appoint an expert, who shall be a disinterested person and qualified as an expert in the relevant field, to give technical and scientific testimony under oath.

Costs

(2) The Court may order that the costs of the expert be paid in such manner and by such persons as the Court considers appropriate.

### PART III

#### CLASS ACTIONS

Class actions

**13.**—(1) In an action under this Act, the Court may by order permit one or more persons to act as representatives of a class of persons if, in the opinion of the Court,

- (a) a question arises in the proceeding that is common to each member of the class;
- (b) the material facts giving rise to the claim for relief of the representatives are similar or related to the material facts giving rise to a claim for relief of the members of the class; and
- (c) the representatives are acting in good faith and in the interests of the class.

Idem

(2) For the purposes of clause (1) (b), material facts relating to different transactions or events or contracts shall not be taken to be dissimilar or unrelated for that reason alone.



(3) The Court may provide in the judgment of a class action for subsequent determination of the amount and distribution of damages assessed against the defendant. Judgment

(4) If damages payable to members of the class remain uncollected for more than 120 days after payment by the defendant into the Court, the amount of the uncollected damages shall be applied in such manner as the Court may order. Uncollected damages

## PART IV

### INSTRUMENTS AND REGULATIONS

**14.—(1)** In this Part, Definitions

“appropriate board” means any board, tribunal or commission established by an Act listed in the Schedule empowered to hold hearings with respect to a matter relating to such Act, and where no such board exists, the Board;

“instrument” means any licence, permit, approval, certificate of approval, program approval, control order or other order made under an Act listed in the Schedule that would permit a person to contaminate or degrade the environment;

“proper authority” means any authority under an Act listed in the Schedule empowered to issue an instrument.

(2) Despite any other Act, no instrument is effective unless the requirements of this section have been met. Effect of contravention

(3) If a new instrument or a revision to an existing instrument is proposed, the proper authority shall give notice of the proposal by publishing it in *The Ontario Gazette* and in two newspapers having general circulation throughout the Province of Ontario. Notice of proposed instrument

(4) Any person may, within thirty days of the giving of notice or within such longer time as may be stated in the notice, Submissions

(a) make written submissions to the proper authority with respect to the proposed provisions of the instrument; and

(b) by written notice to the proper authority, request a hearing by the appropriate board with respect to the proposed provisions of the instrument.



Idem

(5) The proper authority shall review any written submissions and shall respond in writing to the issues raised therein within a reasonable period of time.

Idem

(6) If a request for a hearing has been made, the proper authority shall refer the matter to the appropriate board unless, in its opinion, the request is not made in good faith or is frivolous or is made only for the purpose of delay.

Idem

(7) If the proper authority has declined to refer the matter to the appropriate board under subsection (6), it shall give notice of its decision, together with written reasons therefor.

When  
instrument  
may be  
issued

(8) If there is no request for a hearing under subsection (4), the proper authority may issue the proposed instrument not less than ten days after the time for filing such notice has elapsed.

Idem

(9) If there is a request for a hearing under subsection (4) but the proper authority declines to refer the matter to the relevant board, the proper authority may issue the proposed instrument not less than twenty days after the time for filing such notice has elapsed.

Review of  
instrument

(10) Any person may apply to the Board for a review of an existing instrument in respect of the adequacy of the instrument to protect the environment and the public trust therein from contamination or degradation, having particular regard to technological advances that can be applied in the Province of Ontario, and the Board shall hear the application where a *prima facie* case has been made that the instrument should be amended or revoked.

Notice of  
hearing

(11) Where the appropriate board holds a hearing under subsection (6) or (10), the appropriate board shall,

(a) appoint a time and place for the hearing at a city or town convenient to persons likely to be affected by the contamination or degradation;

(b) cause notice to be given of the hearing,

(i) to the proper authority,

(ii) to any person who submitted notice to the proper authority under subsection (4),

(iii) to any person who submitted notice to the Board under subsection (10), and

(iv) to any person that the appropriate board may direct; and

(c) publish notice of the hearing in *The Ontario Gazette* and in two newspapers having general circulation throughout the Province of Ontario.

(12) Subject to this Act, any hearing initiated under this section shall be conducted according to the rules and procedures that apply to the appropriate board. Procedure

(13) The appropriate board may make such order as to costs as it considers just. Costs

(14) Upon the completion of the hearing, the appropriate board may make such recommendation, order or decision in respect of the matter referred to it under this section as the appropriate board is empowered to make under its enabling Act. Recommendation, etc.

(15) The proper authority may, in an emergency situation, issue an instrument under an Act listed in the Schedule without complying with the other provisions of this section, but such an instrument shall cease to be effective sixty days from the date on which it is issued. Emergencies

**15.—**(1) In this section, “regulation-making authority” means any authority empowered to make any regulation under an Act listed in the Schedule. Notice of proposed regulation

(2) Where a regulation-making authority proposes to make a regulation that may affect the environment, it shall cause the proposed regulation to be published in *The Ontario Gazette* at least sixty days before it proposes to file the regulation with the Registrar of Regulations and shall request briefs or submissions in relation to the proposed regulation. Publication

(3) The regulation-making authority shall review and consider the submissions received within the sixty-day period and shall respond in writing to the issues raised therein within a reasonable period of time. Review of submissions

(4) A regulation filed in contravention of subsection (2) does not come into effect. Effect of contravention

**16.—**(1) In 1989 and every fifth year thereafter, the Board shall review all regulations that relate to the quality of the environment having regard to their adequacy to protect the environment and the public trust therein from contamination. Review of regulations

and degradation, having particular regard to technological advances that can be applied in the Province of Ontario.

Public notice

(2) The Board shall give public notice of the review and, during the review, may receive public submissions and evidence to the extent and in the manner that it considers appropriate.

Report

(3) Upon completion of the review, the Board shall make a report thereon to the Minister, including any recommended changes to the regulations, and the Minister, after receiving the report, shall then lay the report before the Assembly if it is in session or, if not, at the commencement of the next session.

## PART V

### EMPLOYEE RIGHTS

No discipline,  
dismissal,  
etc., by  
employer

**17.—(1)** No employer shall,

- (a) dismiss or threaten to dismiss an employee;
- (b) discipline or suspend an employee;
- (c) impose any penalty upon an employee; or
- (d) intimidate or coerce an employee,

because the employee has reported or proposes to report to any person an act that contaminates or degrades the environment.

Complaint

(2) A person complaining of a contravention of subsection (1) may file the complaint in writing with the Ontario Labour Relations Board.

Application  
of  
R.S.O. 1980,  
c. 141

(3) Subsections 134b (4) to (15) of the *Environmental Protection Act* apply with necessary modifications to a complaint under subsection (2).

## PART VI

### MISCELLANEOUS

Other  
remedies  
preserved

**18.** Nothing in this Act affects any other remedies available at law.

Conflict

**19.** If there is a conflict between any provision of this Act and any other Act, the provision of this Act prevails.

**20.** This Act binds the Crown.

Crown

**21.** Subsection 134b (2) of the *Environmental Protection Act*, being chapter 141 of the Revised Statutes of Ontario, 1980, as enacted by the Statutes of Ontario, 1983, chapter 52, section 22, is amended by striking out "or" at the end of clause (h) and by adding thereto the following clauses:

- |  |                        |
|--|------------------------|
| (j) the <i>Conservation Authorities Act</i> ;                    | R.S.O. 1980,<br>c. 85  |
| (k) the <i>Consolidated Hearings Act, 1981</i> ;                 | 1981, c. 20            |
| (l) the <i>Drainage Act</i> ;                                    | R.S.O. 1980,<br>c. 126 |
| (m) the <i>Lakes and Rivers Improvement Act</i> ;                | R.S.O. 1980,<br>c. 229 |
| (n) the <i>Mining Act</i> ;                                      | R.S.O. 1980,<br>c. 268 |
| (o) the <i>Niagara Escarpment Planning and Development Act</i> ; | R.S.O. 1980,<br>c. 316 |
| (p) the <i>Ontario Waste Management Corporation Act, 1981</i> ;  | 1981, c. 21            |
| (q) the <i>Pits and Quarries Control Act</i> ; or                | R.S.O. 1980,<br>c. 378 |
| (r) the <i>Planning Act, 1983</i> ,                              | 1983, c. 1             |

. . . . .

**22.** This Act comes into force on the day it receives Royal Assent. Commence-  
ment

**23.** The short title of this Act is the *Ontario Environmental Rights Act, 1989*. Short title

## SCHEDULE

*Conservation Authorities Act*

*Consolidated Hearings Act, 1981*

*Drainage Act*

*Environmental Assessment Act*

*Environmental Protection Act*

*Lakes and Rivers Improvement Act*

*Mining Act*

*Niagara Escarpment Planning and Development Act*



*Ontario Waste Management Corporation Act, 1981*

*Ontario Water Resources Act*

*Pesticides Act*

*Pits and Quarries Control Act*

*Planning Act, 1983*





# Bill 13

## **An Act respecting Environmental Rights in Ontario**

Mrs. Grier

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*1st Reading*      November 9th, 1987  
*2nd Reading*  
*3rd Reading*  
*Royal Assent*

*Continued from the 1st Session by an Order of the  
Legislative Assembly of March 2nd, 1989.*

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## EXPLANATORY NOTE

The purpose of the Bill is to provide for environmental rights in Ontario. The Bill permits an action to be brought in the Supreme Court of Ontario by any person for the protection of the environment. The Bill also provides for public notice and review of certain approvals, permits or other environment-related orders before the approvals, permits or orders come into force. Other provisions of the Bill provide for public access to information relating to environmental decisions and for regular review by the Environmental Assessment Board of all regulations affecting the environment. The Bill also permits the Lieutenant Governor in Council to establish a fund to assist persons and public interest groups for the purpose of ensuring that points of view representative of significant bodies of opinion are adequately represented in environmental proceedings.

# Bill 13

1989

## An Act respecting Environmental Rights in Ontario

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

### PART I

#### INTERPRETATION AND PURPOSE

#### 1. In this Act,

Definitions

“Board” means the Environmental Assessment Board established under the *Environmental Assessment Act*;

R.S.O. 1980,  
c. 140

“contaminant” means any solid, liquid, gas, odour, heat, sound, vibration, radiation or combination of any of them resulting directly or indirectly from the activities of people which may,

- (a) impair the quality of the environment or the public trust therein for any use that can be made of it,
- (b) cause injury or damage to property or to plant or animal life,
- (c) cause harm or material discomfort to any person,
- (d) adversely affect the health or impair the safety of any person, or
- (e) render any property or plant or animal life unfit for use by people,

and “contamination” has a corresponding meaning;

“Court” means the Supreme Court of Ontario;

“degradation” refers to any destruction or significant decrease in the quality of the environment or the public trust therein

other than a change resulting from contamination and "degrade" has a corresponding meaning;

"environment" means,

- (a) air, land or water,
- (b) plant and animal life, including people,
- (c) the social, economic and cultural conditions that influence the life of people or a community,
- (d) any building, structure, machine or other device or thing made by people,
- (e) any solid, liquid, gas, odour, heat, sound, vibration or radiation resulting directly or indirectly from the activities of people, or
- (f) any part or combination of the foregoing and the inter-relationships between any two or more of them,

in or of Ontario;

"Minister" means the Minister of the Environment;

"public trust" means the collective interest of residents of the Province of Ontario in the quality of the environment and the protection thereof and the heritage therein for future generations;

"regulation" means a regulation made under an Act listed in the Schedule to this Act.

Environ-  
mental  
rights

**2.—(1)** The people of Ontario have a right to clean air, pure water and the preservation of the natural, scenic, historic and aesthetic values of the environment.

Idem

(2) Ontario's public lands, waters and natural resources are the common property of all the people, including generations yet to come, and, as trustee of those lands, waters and resources, the Government of Ontario shall conserve and maintain them for the benefit of present and future generations.

Declaration

(3) It is hereby declared that it is in the public interest to provide every person with an adequate remedy to protect and conserve the environment and the public trust therein from contamination and degradation.

3.—(1) A person who considers that the environment is being contaminated or degraded may in writing, specifying the nature of the contamination or degradation, request that the Minister investigate the alleged contamination or degradation.

Request for  
investigation

(2) Where the Minister receives a written request under subsection (1) and is satisfied that the request is made in good faith and is not frivolous, the Minister shall make, or cause to be made, any investigation that he or she considers necessary of the alleged contamination or degradation, its source, its effect on the environment and of any advisable remedial action.

Written  
request

(3) Upon an investigation referred to in subsection (2) being completed, the Minister shall provide a copy of the resulting report to the person who requested the investigation.

Report

## PART II

### CAUSE OF ACTION

4.—(1) Where an activity has contaminated or degraded or an activity is likely to commence, is commencing or is continuing that threatens to contaminate or degrade the environment, any person may commence an action in the Supreme Court of Ontario, without having to show any greater or different right, harm or interest than that of other members of the public or any pecuniary or proprietary right or interest in the subject-matter of the proceedings, against,

Right of  
action

(a) any person who is responsible for the activity; and

(b) any Minister responsible for regulatory, fiscal or proprietary control of the activity.

(2) Subsection (1) applies without any requirement that the person commencing the action allege or establish that there had been an infringement of an approval, permit, licence, standard, regulation, rule or order established by or under an Act listed in the Schedule.

Idem

(3) In an action commenced under this section, if the activity complained of is not governed by any legally established standard, the Court may hear evidence as to the standard, if any, that should apply to the defendant, having regard to,

Court may  
determine  
standard

(a) the right of the people of Ontario to the protection of the environment and the public trust therein against contamination or degradation;



- (b) the fulfillment of the widest range of beneficial uses of the environment without contamination or degradation; and
- (c) the achievement of a balance between population and resource use that will permit high standards of living and a wide sharing of life's amenities,

and the Court may order the defendant to comply with such standard as it may determine.

Security  
for costs  
or damages

5.—(1) At any time prior to a trial of the issue in any action commenced under this Act, any defendant or third party may apply to the Court for an order requiring the person bringing the action to post security for costs or damages.

Notice

(2) An application under subsection (1) shall be on notice to all parties and the Court may hear argument concerning the application from any party as to,

- (a) the seriousness of the offence or harm alleged;
- (b) the consequences to the defendant of the order sought; or
- (c) any other matter that the Court considers relevant to the posting of security for costs or damages.

Limitation  
on order

(3) Upon the completion of the hearing referred to in subsection (2), if the Court is satisfied that the person bringing the action,

- (a) has a *prima facie* case to bring before the Court; and
- (b) is bringing the action for the protection of the environment or the public trust therein,

the Court shall not order the posting of security for costs or damages in an amount in excess of \$500.

Onus

6.—(1) Where the activity of the defendant that is the subject-matter of an action is not governed by a standard established by or under an Act listed in the Schedule or pursuant to subsection 3 (3) and where the plaintiff has established that the activity of the defendant has contaminated or degraded or is likely to contaminate or degrade the quality of the environment, the onus shall be on the defendant to establish in defence that there is no feasible and prudent alternative to the defendant's activity and that such activity is in the best

interests of the public having regard to the matters set out in subsection 4 (3).

(2) It shall be a defence to an action commenced under this Act that the activity of the defendant that is the subject-matter of this action is authorized by a standard established by or under an Act listed in the Schedule unless the plaintiff can establish, on a balance of probabilities, that the activity has caused or is likely to cause severe or irreparable contamination or degradation to the environment. Defence

(3) It shall not be a defence to an action commenced under this Act that, Prohibited defences

(a) the defendant is not the sole cause of the alleged or potential contamination or degradation; or

(b) it cannot be established that the contaminant which the defendant discharged or deposited or permitted to be discharged or deposited was the cause, in fact, of the contamination or degradation of the environment or the public trust therein, where the effect on the environment is of a nature consistent with the contaminant or source of degradation being the total or partial, immediate or mediate cause.

7. In an action commenced under this Act, where it has been established that the activity of the defendant has contaminated or degraded or is likely to contaminate or degrade the environment, the Court may grant either an interim or permanent injunction, order the defendant to remedy any damage caused by his activity, award damages, impose conditions on the defendant or make such other order as the Court may consider is necessary. Injunction, etc.

8.—(1) The Court may, Reference

(a) on the motion of any party; or

(b) on its own motion,

refer any question or questions, except the final determination of the issue in question, to the Board as the Court may consider appropriate and the proceedings before the Board shall be conducted in accordance with and subject to the provisions of the *Statutory Powers Procedure Act* and when so referring, the Court may also grant an interim injunction or such other temporary relief as the Court considers necessary for the protection of the environment or the public trust therein pending

final determination of the issue and, in so referring, the Court shall retain jurisdiction of the action.

Order

(2) When the Board has completed its review and consideration of the question referred to it under subsection (1), the Board shall make recommendations concerning the matter in question to the Court, and the Court shall review the recommendations and make such order as it considers appropriate under section 7.

Inspector

**9.**—(1) In any action under this Act, the Court may appoint an inspector, who shall be a disinterested person and qualified as an expert in the relevant field, to take technical and scientific testimony under oath and make a record thereof and the inspector shall report his or her findings and opinion thereon to the Court without prejudice to the right of any party to examine the inspector or any person who has given testimony to the inspector.

Costs

(2) The Court may order that the costs of the inspector be paid in such manner and by such persons as the Court considers appropriate.

### PART III

#### PARTIES, INTERVENORS *AMICUS CURIAE*, CLASS ACTIONS

Parties,  
etc.

**10.** Whenever a proceeding before any board, tribunal, commission or court, or any appeal or review thereof, is authorized under the provisions of this Act or an Act listed in the Schedule, the board, tribunal, commission or court may permit any person to join as a party, intervenor or *amicus curiae* to the proceeding, appeal or review as the board, tribunal, commission or court may consider appropriate having regard to the purpose of this Act.

Class  
actions

**11.**—(1) In an action under this Act, the Court may by order permit one or more persons to act as representatives of a class of persons where, in the opinion of the Court,

- (a) the claims of the representative party are typical of the claims of the class;
- (b) the questions of law or fact common to the members of the class predominate over any questions affecting only individual members;
- (c) a class action is superior to other available methods for the fair and efficient adjudication of the controversy; and



- (d) the representative party is acting in good faith and it is *prima facie* in the interests of the class that the action be maintained as a class action.

(2) The Court may provide in the judgment of a class Judgment  
action for subsequent determination of the amount and distribution of damages assessed against the defendant.

## PART IV

### INSTRUMENTS AND REGULATIONS

#### 12.—(1) In this section,

Definitions

“appropriate board” means any board, tribunal or commission established by an Act listed in the Schedule empowered to hold hearings with respect to a matter relating to such Act, and where no such board exists, the Board;

“instrument” means any licence, permit, approval, certificate of approval, program approval, control order or other order made under an Act listed in the Schedule that would permit a person to contaminate or degrade the environment in contravention of any such Act or the regulations made thereunder;

“proper authority” means any authority designated by an Act listed in the Schedule empowered to issue any instrument pursuant to any such Act.

(2) Notwithstanding any other Act, no instrument shall have force and effect unless the proper authority has given notice of the proposed provisions of the instrument by publication in *The Ontario Gazette* and in two newspapers circulating throughout the Province of Ontario and that is in accordance with the other provisions of this section. Notice of  
proposed  
instrument

(3) Any person may, within thirty days of the giving of notice or within such longer time as may be stated in the notice, Submissions

- (a) make written submissions to the proper authority with respect to the proposed provisions of the instrument; and
- (b) by written notice to the proper authority request a hearing by the appropriate board with respect to the proposed provisions of the instrument.



Idem

(4) Where the proper authority has received notice of a request for a hearing, it shall refer the matter to the appropriate board unless, in the opinion of the authority, the request is not made in good faith or is frivolous or is made only for the purpose of delay.

Idem

(5) Where the proper authority has declined to refer the matter to the appropriate board under subsection (4), the proper authority shall give notice for a hearing under subsection (3), together with written reasons therefor.

Where  
instrument  
may be  
issued

(6) Where there is no notice of a request for a hearing under subsection (3), or where the proper authority has declined to refer the matter to the appropriate board under subsection (4), the proper authority may issue the proposed instrument,

- (a) where there is no notice of a request for a hearing, not less than ten days after the time for filing such notice has elapsed;
- (b) where the proper authority has declined to refer the matter to the relevant board, not less than twenty days after the time for filing such notice has elapsed.

Review of  
instrument

(7) Any person may make an application to the Board requesting the Board to review an existing instrument having regard to the adequacy of the instrument to protect the environment and the public trust therein from contamination or degradation, especially in the light of technological advances that can be applied in the Province of Ontario and the Board shall hear the application where a *prima facie* case has been made that the instrument should be amended or revoked.

Preliminary  
hearing

(8) The Board shall hold a preliminary hearing to determine whether a *prima facie* case has been made in an application under subsection (7) unless the Board is of the opinion that the application is not made in good faith or is frivolous.

Notice

(9) Where the Board decides not to hold a preliminary hearing under subsection (8), or where the Board decides that a *prima facie* case has not been made under subsection (7), the Board shall give notice of its decision to the person making the application, together with written reasons therefor.

Notice of  
hearing

(10) Where the appropriate board holds a hearing under subsection (4) or (7), the appropriate board shall,

- (a) appoint a time and place for the hearing at a city or town convenient to persons likely to be affected by the contamination or degradation;
- (b) cause notice to be given of the hearing,
  - (i) to the proper authority,
  - (ii) to any person who submitted notice to the proper authority under subsection (3),
  - (iii) to any person who submitted notice to the Board under subsection (7),
  - (iv) to any person as the appropriate board may direct, and
  - (v) to the public, by publication in *The Ontario Gazette* and in two newspapers circulating throughout the Province of Ontario.

(11) Any hearing initiated under the provisions of this section shall be conducted according to the rules and procedures that apply to the appropriate board, including the rules and procedures established by this Act.

Procedure

(12) Upon the completion of the hearing, the appropriate board may make such recommendations, order or decision in respect of the matter referred to it under this section as the board is empowered to make pursuant to its enabling Act.

Recommendations,  
etc.

(13) The proper authority may, in an emergency situation, issue an instrument that it is empowered to issue pursuant to an Act listed in the Schedule without complying with the other provisions of this section but, where the authority issues an instrument in an emergency situation, the authority shall take steps to comply with the provisions of this section within sixty days of the date on which the instrument was issued.

Emergencies

**13.—**(1) In 1987 and every fifth year thereafter, the Board shall review all regulations that relate to the quality of the environment having regard to their adequacy to protect the environment and the public trust therein from contamination and degradation, especially in the light of technological advances that can be applied in the Province of Ontario.

Review of  
regulations

(2) The Board shall give public notice of the review and, during the review, may receive public submissions and evidence to the extent and in the manner that it considers appropriate.

Public  
notice

## Report

(3) Upon completion of the review, the Board shall make a report thereon to the designated Minister, including in the report any recommended changes to the regulations, and the designated Minister, after receiving the report shall then lay the report before the Assembly if it is in session or, if not, at the commencement of the next ensuing session.

Notice of  
proposed  
regulation

**14.—(1)** In this section, “regulation-making authority” means any authority designated by an Act listed in the Schedule empowered to make any regulation under any such Act.

## Publication

(2) Where a regulation-making authority proposes to make a regulation, it shall cause the proposed regulation to be published in *The Ontario Gazette* at least sixty days before it proposes to file the regulation with the Registrar of Regulations and request briefs or submissions in relation to the proposed regulation.

Effect of  
contravention

(3) A regulation filed in contravention of subsection (2) does not come into effect.

## PART V

## ACCESS TO INFORMATION

## Definition

**15.—(1)** In this section, “designated Minister” means any minister designated by an Act listed in the Schedule to administer and enforce the provisions of any such Act.

Right to  
information

(2) Every person has the right to obtain from any designated Minister any available information concerning the quantity, quality or concentration of contaminants emitted, issued, discharged or deposited by any source of contamination or degradation.

Right to  
examine

(3) The designated Minister shall permit any person who applies therefor to examine any licence, permit, approval, certificate of approval, provisional certificate of approval, control order or other order, notice of intention to issue a control order, program approval, provisional certificate of approval, notice of violation of an Act listed in the Schedule, and any information in support of any such document, and, on payment of a fee not to exceed ten cents per page, the person shall be provided with a copy thereof.

## Idem

(4) The designated Minister shall permit any person who applies therefor to examine any report on any test, observation, inspection or analysis carried out by or under the Minister's authority relating to any operation subject to an Act



listed in the Schedule under the Minister's jurisdiction, and, on payment of a fee not to exceed ten cents per page, the person shall be provided with a copy thereof.

(5) Notwithstanding subsections (3) and (4), the designated Minister may refuse an application made under subsections (3) and (4) where, in his or her opinion, the information sought to be disclosed contains,

Where disclosure may be reduced

- (a) information the disclosure of which would be injurious to law enforcement or the conduct of lawful investigations, including investigative techniques or plans for specific lawful investigations;
- (b) information containing personal information respecting an identifiable individual including, without restricting the generality of the foregoing,
  - (i) vital statistics,
  - (ii) background personal information,
  - (iii) medical, criminal, educational or employment records or history,
  - (iv) the personal opinions or views of the individual, unless those opinions or views are given in the course of employment in the public service of the Government of Ontario;
- (c) information of a financial, commercial, scientific or technical sort,
  - (i) the disclosure of which could reasonably be expected to prejudice significantly the competitive position, or interfere significantly with contractual or other negotiations, of a person, group of persons, organization or government institution, or
  - (ii) the disclosure of which could reasonably be expected to result in undue financial loss or gain by a person, group of persons, organization or government institution,

and which, without restricting the generality of the foregoing, includes confidential technology, trade secrets, marketing information, customer lists, advertising budgets and funding sources; or



- (d) records of proposals and recommendations to and deliberations and proceedings of the Executive Council or any committee thereof.

## Notice

(6) Where the designated Minister, under subsection (5), refuses an application for disclosure of information, he or she shall, within twenty days, so inform the applicant, together with written reasons thereof, and the Minister shall inform the applicant of the applicant's right of appeal to the Board.

## Hearing

(7) Any applicant may, within fifteen days of receipt of a notice under subsection (6), by written notice served upon the designated Minister and the Board, require a hearing before the Board.

## Idem

(8) In a hearing under subsection (7), the Board shall take every precaution, including, when appropriate, receiving representations without notice and conducting hearings in private, to avoid disclosure by the Board or any other person of any information the disclosure of which may be refused under this section.

## Onus

(9) In a hearing under subsection (7), the onus of establishing that access to the information may be refused shall be on the designated Minister concerned.

## Order

(10) At the conclusion of the hearing, the Board may make such order as it considers appropriate, having regard to the provisions of this section, and without restricting the generality of the foregoing, may,

- (a) order the disclosure of all or part of the information sought to be disclosed; or
- (b) where the Board has determined that the information should not be disclosed, order that a non-confidential summary of all or any part of the information be prepared.

## Appeal

(11) An appeal lies to the Divisional Court of Ontario from a decision of the Board on a point of law or jurisdiction.

## PART VI

### PUBLIC INTEREST FUNDING

## Definition

**16.—**(1) In this section, "Fund" means the Environmental Hearing Assistance Fund.

(2) The Lieutenant Governor in Council may establish a fund to be known as the Environmental Hearing Assistance Fund.

(3) Where a Fund has been established under subsection (2), the moneys required for the purposes of the Fund shall be paid out of the Consolidated Revenue Fund in the fiscal year during which it is established and thereafter shall be paid out of the moneys appropriated therefor by the Legislature.

(4) Subject to subsection (5), whenever a proceeding before any board, tribunal, commission or court, or any appeal or review thereof, is authorized under the provisions of this Act or an Act listed in the Schedule, any party or intervenor who engages in proceedings for the purpose of protecting and conserving the environment may, at any time, make an application for financial assistance to the Board.

(5) A person may apply under subsection (4) only where that person,

(a) represents an interest representative of significant bodies of opinions that would otherwise not be represented at the proceedings; and

(b) does not have sufficient financial resources to enable him to adequately represent that interest.

(6) Where a Fund is available and the Board is satisfied financial assistance is appropriate, the Board may order that a sum be paid to the applicant therefor from the Fund in such manner, at such times and in such amount as the Board considers appropriate.

(7) No person is precluded from applying under subsection (4) by reason only that he has previously received financial assistance under subsection (6).

(8) Where it appears to the Board that several parties or intervenors having identical or substantially similar interests have applied for financial assistance from the Board, the Board may consolidate the applications and make such order concerning payment as it considers appropriate.

(9) In considering the sum to be awarded to any applicant, the Board shall have regard to all the attendant costs associated with participating in the proceedings, including,

(a) legal fees;

- (b) disbursements;
- (c) conduct money;
- (d) witness fees;
- (e) fees for relevant reports and studies; and
- (f) any other cost that is relevant and appropriate to participation in the proceedings.

## PART VII

### EMPLOYEE RIGHTS

No discipline,  
dismissal,  
etc.,  
by employer

#### **17.—(1) No employer shall,**

- (a) dismiss or threaten to dismiss an employee;
- (b) discipline or suspend an employee;
- (c) impose any penalty upon an employee; or
- (d) intimidate or coerce an employee,

because the employee has reported or proposes to report to the appropriate authority an act that contaminates or degrades the environment.

Penalty  
for  
offence

(2) Where an employer is convicted of an offence under subsection (1), the provincial judge making the conviction shall, in addition to the penalty, order what action the employer shall take or what the employer shall refrain from doing and such order may include the reinstatement in employment of the employee with compensation for loss of wages and other benefits to be assessed against the employer.

Offence

(3) Every person who contravenes subsection (1) is guilty of an offence and on conviction is liable to a fine of not more than \$10,000 or to imprisonment for a term of not more than six months, or to both.

## PART VIII

### MISCELLANEOUS

Common law  
remedies  
preserved

**18.** Nothing herein contained shall be construed so as to repeal, remove or reduce any existing remedy available at law to any person.

**19.** Where a conflict appears between any other Act, including the *Environmental Protection Act*, the provision of this Act shall prevail. Conflict  
R.S.O. 1980,  
c. 141

**20.** This Act binds the Crown. Crown

**21.** This Act comes into force on the day it receives Royal Assent. Commence-  
ment

**22.** The short title of this Act is the *Ontario Environmental Rights Act, 1989*. Short title

## SCHEDULE

*Conservation Authorities Act*

*Consolidated Hearings Act, 1981*

*Drainage Act*

*Environmental Assessment Act*

*Environmental Protection Act*

*Mining Act*

*Niagara Escarpment Planning and Development Act*

*Ontario Waste Management Corporation Act, 1981*

*Ontario Water Resources Act*

*Pesticides Act*

*Pits and Quarries Control Act*

*Planning Act, 1983*









# Bill 14

## An Act to amend the Planning Act, 1983

Mr. Johnston  
(Scarborough West)

*1st Reading*      May 15th, 1989

*2nd Reading*

*3rd Reading*

*Royal Assent*



## EXPLANATORY NOTES

**SECTION 1.** "Nuclear weapons material" is defined.

**SECTION 2.** This adds to the factors that the Minister must consider in carrying out his or her responsibilities under the Act the protection of the public from the possible threat to its health, social fabric and environment inherent in the production of nuclear weapons material.

**SECTION 3.** Self-explanatory.

**SECTION 4.** This requires the approval of the Minister and in the case of land in a local municipality, a zoning by-law properly passed by the Council of that municipality before a person is entitled to establish or convert a facility for or to the production of nuclear weapons material on any parcel of land in Ontario.

**SECTION 5.** Section 66 of the Act makes it an offence to contravene certain provisions, with maximum fines on conviction of \$20,000 for a first offence and \$10,000 for each day that a contravention continues after the first conviction. The comparable fines for a corporation are \$50,000 and \$25,000 respectively. Section 5 of the Bill makes this provision apply in respect of a person contravening section 4 of the Bill.

# Bill 14

1989

## An Act to amend the Planning Act, 1983

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

**1. Section 1 of the *Planning Act, 1983*, being chapter 1, as amended by the Statutes of Ontario, 1989, chapter 5, section 1, is further amended by adding thereto the following clause:**

(ga) “nuclear weapons material” means any item of weaponry, munitions, equipment or specialized supplies or services intended for use primarily in the production, transportation or testing of nuclear weapons or associated equipment or in the deployment of nuclear weapons.

**2. Section 2 of the said Act, as amended by the Statutes of Ontario, 1989, chapter 5, section 2 is further amended by adding thereto the following clause:**

(k) the protection of the public from the possible threat to its health, social fabric and environment inherent in the production of nuclear weapons material.

**3. Section 16 of the said Act is amended by adding thereto the following subsection:**

(2) Every official plan shall be deemed to include a provision that no new facilities shall be established for and no facilities shall be converted to the production of nuclear weapons material.

Deemed  
provision

**4. The said Act is amended by adding thereto the following section:**

**45a.** Unless otherwise approved by the Minister and in the case of land in a local municipality also authorized by a by-law in force under section 34, no person shall establish or convert a facility for or to the production of nuclear weapons material on any parcel of land in Ontario.

Nuclear  
weapons  
material  
production  
restricted

**5.** Subsection 66 (1) of the said Act is amended by inserting after "45" in the first line "45a".

Commence-  
ment

**6.** This Act comes into force on the day it receives Royal Assent.

Short title

**7.** The short title of this Act is the *Planning Amendment Act, 1989*.

# Bill 15

## **An Act to amend the Barristers Act**

**The Hon. I. Scott**  
*Attorney General*

---

*1st Reading*      November 10th, 1987

*2nd Reading*

*3rd Reading*

*Royal Assent*

*Continued from the 1st Session by an Order of the  
Legislative Assembly of March 2nd, 1989.*

---



### EXPLANATORY NOTES

**SECTIONS 1 and 2.** The provisions repealed provide for the appointment of Queen's counsel and their precedence in the courts.

**SECTION 3.** The common law office of Queen's counsel and the use of the title in the practice of law in Ontario are abolished.

Bill 15

1989

## An Act to amend the Barristers Act

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

**1. Section 2 of the *Barristers Act*, being chapter 38 of the Revised Statutes of Ontario, 1980, is repealed.**

**2. Subsection 3 (3) of the said Act is repealed.**

**3. The said Act is amended by adding thereto the following sections:**

**4.—(1)** The office of Her Majesty's counsel learned in the law, or Queen's counsel, is abolished. Q.C.'s  
abolished

**(2)** All letters patent appointing members of the bar of Ontario to be Her Majesty's counsel learned in the law are cancelled. Patents  
cancelled

**5.—(1)** No person shall represent himself or herself to be one of Her Majesty's counsel learned in the law, or Queen's counsel, or other like designation, in the practice of law in Ontario. Use of  
designation

**(2)** Subsection (1) comes into force on the 1st day of July, 1988. Effective  
date

**4. This Act comes into force on the day it receives Royal Assent.** Commence-  
ment

**5. The short title of this Act is the *Barristers Amendment Act, 1989*.** Short title

THE HISTORY OF THE

REIGN OF KING CHARLES THE FIRST

IN THE YEAR 1625

BY JOHN BURNET

OF THE UNIVERSITY OF OXFORD

IN TWO VOLUMES

LONDON, 1724

Printed by J. Sturges, at the Sign of the Crown, in St. Dunstons Church-yard

in the Strand

By Authority

Printed by J. Sturges, at the Sign of the Crown, in St. Dunstons Church-yard

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in the Strand

By Authority

# Bill 16

## **An Act to provide for the Conversion of Technologies and Skills used in the Nuclear Weapons Industry to Civilian Uses**

**Mr. Johnston**  
*(Scarborough West)*

---

*1st Reading*      May 15th, 1989  
*2nd Reading*  
*3rd Reading*  
*Royal Assent*

---



## EXPLANATORY NOTES

The purpose of the Bill is to prepare for the termination of contracts for the production, repair, modification, storage or handling of materials used for nuclear weapons by encouraging the conversion of technologies and skills developed or used in those nuclear weapons contracts to projects that serve the civilian sector and by preparing for the employment of individuals whose jobs may be lost by the termination of those nuclear weapons contracts.

The Bill requires a company that enters into or has a nuclear weapons contract to establish a committee to assist in the preparation for conversion of the plant to civilian purposes and in the retraining of employees. The committees are to be composed of equal numbers of representatives of the company and of the employees and in some circumstances of non-voting representatives from the community.

The Bill provides for benefits to be paid to employees who lose their jobs as a result of the termination of a nuclear weapons contract.

A company that enters into or has a nuclear weapons contract is required to set up a fund to carry out the purposes of the Bill and to put in that fund annually 2.5 per cent of its gross revenue from that contract in that year. Companies and committees are also to seek additional sources of funding to carry out the purposes of the Bill.

The Bill gives the Minister discretion to assist committees and companies in preparing for and carrying out conversion plans and to assist them financially in carrying out their purposes.

The Bill makes it an offence to contravene any provision of the Act and the maximum penalty for a contravention is set at \$10,000 for persons other than corporations and at \$100,000 for corporations.

**Bill 16****1989**

**An Act to provide for the Conversion  
of Technologies and Skills used in the  
Nuclear Weapons Industry to Civilian Uses**

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

**1. In this Act,**

Definitions

“committee” means an economic conversion planning committee established under section 3;

“conversion plan” means a plan established under section 4;

“facility” means a facility where a nuclear weapons contractor produces, repairs, modifies, stores or handles nuclear weapons material in Ontario;

“fund” means a fund established under section 7;

“Minister” means the Minister of Industry, Trade and Technology;

“nuclear weapons contract” means a contract under which a corporation, agency or other establishment agrees to produce, repair, modify, store or handle nuclear weapons material in Ontario;

“nuclear weapons contractor” or “contractor” means a corporation, agency or other establishment that is engaged in or enters into a nuclear weapons contract;

“nuclear weapons material” means any item of weaponry, munitions, equipment or specialized supplies or services intended for use primarily in the production, transportation or testing of nuclear weapons or associated equipment or in the deployment of nuclear weapons.

Economic  
conversion  
program

**2.** A nuclear weapons contractor shall establish and maintain programs in accordance with this Act to prepare for the termination of its nuclear weapons contract by encouraging the conversion of technologies and skills developed or used in that contract to projects that serve the civilian sector and by preparing for the employment of individuals whose jobs may be lost by the termination of that contract.

Economic  
conversion  
planning  
committee  
established

**3.—(1)** A nuclear weapons contractor shall establish an economic conversion planning committee at each of its facilities forthwith upon entering into a nuclear weapons contract and shall cause it to be maintained thereafter.

Idem

(2) Where a nuclear weapons contract has been entered into before this Act comes into force, the contractor shall establish the economic conversion planning committee forthwith upon the coming into force of this Act.

Composition

(3) A committee shall be composed of not fewer than six members, with at least half of the members representing the employees at the facility and the remaining members representing the contractor.

Idem

(4) The members representing the employees at the facility shall be selected from time to time,

(a) by the union bargaining units if the employees or some of them are represented by one or more union bargaining units; or

(b) by representatives democratically elected by the employees if none of them are represented by a union bargaining unit.

Community  
represent-  
atives

(5) The Minister shall appoint as non-voting members of a committee not more than three persons who live in the municipality in which a facility is located and whose appointments are approved by the municipal council.

Office  
space

(6) A nuclear weapons contractor shall provide free of charge to its committee whatever office space, furniture and office supplies that the committee reasonably needs to carry out its functions.

Committee  
work

(7) A nuclear weapons contractor shall allow members of the committee to attend meetings and carry on their duties for the committee during the working day and any time spent for the committee shall be computed as working time for the purposes of computing remuneration and benefits.

4.—(1) It is the function of a committee and it has the power to,

Functions  
of  
committee

- (a) develop and review a comprehensive plan,
  - (i) for converting the facility to productive activities that are acceptable to the contractor and not related to nuclear weapons purposes,
  - (ii) for providing the benefits required by this Act for those employees who lose their jobs as a result of the termination of the nuclear weapons contract, and
  - (iii) for assisting those employees who will not be employed by the contractor after the conversion in finding reasonable alternative employment;
- (b) oversee the implementation of the plan described in clause (a) when the nuclear weapons contract is terminated or completed;
- (c) ensure that the facility provides occupational retraining and re-employment counselling services, or ensure that such retraining and services are provided by an agency outside the facility, for all employees whose jobs are lost, whether temporarily or permanently, as a result of the termination or completion of a nuclear weapons contract;
- (d) assist the contractor in seeking outside sources of funding, as needed, to carry out the purposes of this Act; and
- (e) invest any money held in the fund in investments approved under the *Trustee Act*, and allocate that money in the manner provided for under this Act.

R.S.O. 1980,  
c. 512

(2) In developing a conversion plan, the committee shall attempt to maximize the extent to which the personnel required for the efficient operation of the converted facility can be drawn from personnel employed by the facility before the conversion.

Conversion  
plans

5.—(1) If a committee is not able to agree on a conversion plan, the committee shall make a report to the Minister containing the recommendations of the representatives of the employees and of the contractor and the opinions of any representatives of the community.

Where no  
agreement



Minister  
to decide

(2) If the Minister receives a report under subsection (1), he or she shall assist the committee, and where the Minister determines after such assistance that the committee is unable to agree on a conversion plan, the Minister shall assist the committee in whatever way he or she considers appropriate in formulating and carrying out a plan for providing the benefits required under section 6 and assisting employees in obtaining alternative employment.

Benefits  
to  
employees

R.S.C. 1985,  
c. U-1

6. If an employee temporarily or permanently loses a job as a result of the termination of a nuclear weapons contract and the employee is eligible to receive benefits under the *Unemployment Insurance Act* (Canada), the contractor shall pay from the fund to that employee a benefit that when combined with the benefit under the *Unemployment Insurance Act* (Canada) is sufficient to ensure that the employee maintains an income at a level equal to 90 per cent of the employee's annual salary or wages immediately preceding the loss.

Money  
for plan

7.—(1) A nuclear weapons contractor shall establish a fund to assist in carrying out a conversion plan and shall pay into the fund annually an amount equal to 2.5 per cent of the contractor's gross revenue from the contract for that year.

Idem

(2) A contractor, with the assistance of the committee, shall attempt to obtain whatever additional money for the fund it considers necessary to carry out the conversion plan.

Management  
of fund

(3) The committee shall manage the fund.

Allocation  
of money

(4) If there is not enough money in a fund to properly carry out a conversion plan, the committee shall apply what money there is in the fund first for providing the benefits to employees required under section 6, second for assisting employees who lose their jobs in retraining and in obtaining alternative employment, and third in financing any retooling of the facility required to carry out the conversion plan.

Idem

(5) If, after the assistance of the Minister, a committee is unable to agree on a conversion plan, it shall apply the money in the fund first for providing the benefits to employees required under section 6 and second for assisting employees who lose their jobs in retraining and in obtaining alternative employment.

Minister  
to assist

8. The Minister may offer whatever assistance he or she considers appropriate to a committee or a contractor, including, without limiting the generality of the foregoing,

- (a) developing and coordinating information concerning,
  - (i) critical issues that should be addressed in formulating a conversion plan,
  - (ii) organizations and individual consultants who might be of assistance to committees in formulating a conversion plan,
  - (iii) the issues involved in the retraining of personnel,
  - (iv) the requirements of programs for retraining of various classes of personnel, and
  - (v) programs that are available for the retraining of various classes of personnel;
- (b) providing financial assistance by way of a grant or a loan to supplement a fund;
- (c) assisting a committee and a contractor in carrying out the conversion plan.

**9.—(1)** A nuclear weapons contractor shall cause its committee to report to the Minister concerning the development and implementation of its plan within one year after the committee is established and yearly thereafter.

Report to  
Minister

(2) If, after receiving a report, the Minister is not satisfied with the progress of a committee, the Minister shall assist the committee in whatever way he or she considers appropriate in carrying out its functions.

Minister  
to help

**10.—(1)** A nuclear weapons contractor shall provide to the Minister upon entering into a nuclear weapons contract and annually thereafter such information concerning the nuclear weapons contract as the Minister may require.

Report on  
contract

(2) Where a nuclear weapons contract has been entered into before this Act comes into force, the contractor shall provide the information required under subsection (1) forthwith after the coming into force of this Act and annually thereafter.

Transition

**11.** No action shall be instituted against a member of a committee for an act done in good faith in the execution or intended execution of the person's duty or for an alleged

Protection  
from  
liability

neglect or default in the execution in good faith of the person's duty.

Offence

**12.**—(1) A person who contravenes a provision of this Act and a director, officer or employee of a corporation who authorizes, permits or concurs in such a contravention by the corporation is guilty of an offence and on conviction is liable to a fine of not more than \$10,000.

Idem

(2) The maximum fine that may be imposed on a corporation is \$100,000 and not as provided in subsection (1).

Commence-  
ment

**13.** This Act comes into force on the day it receives Royal Assent.

Short title

**14.** The short title of this Act is the *Nuclear Weapons Economic Conversion Act, 1989*.

# Bill 17

## **An Act to authorize the Raising of Money on the Credit of the Consolidated Revenue Fund**

The Hon. R. Nixon

*Treasurer of Ontario and Minister of Economics*

*1st Reading*      May 17th, 1989

*2nd Reading*

*3rd Reading*

*Royal Assent*



### EXPLANATORY NOTE

The purpose of the Bill is to provide authority for borrowing \$2,600,000,000 for the Consolidated Revenue Fund. The principal borrowings authorized under the *Ontario Loan Act* in recent years have been from the following sources:

1. Canada Pension Plan
2. Teachers' Superannuation Fund
3. The public capital market

The Bill provides that any unused borrowing authority will expire on September 30, 1990.

## Bill 17

1989

# An Act to authorize the Raising of Money on the Credit of the Consolidated Revenue Fund

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

**1.**—(1) The Lieutenant Governor in Council is hereby authorized to raise from time to time by way of loan in any manner provided by the *Financial Administration Act* such sum or sums of money as are considered necessary for discharging any indebtedness or obligation of Ontario, for making any payments authorized or required by any Act to be made out of the Consolidated Revenue Fund or for reimbursing the Consolidated Revenue Fund for any moneys expended for any of such purposes, provided that the principal amount of any securities issued and temporary loans raised under the authority of this Act shall not exceed in the aggregate \$2,600,000,000.

Loans  
authorized

R.S.O. 1980,  
c. 161

(2) The sum of money authorized to be raised by subsection (1) for the purposes mentioned therein shall include the principal amounts of Province of Ontario debentures issued to the Teachers' Superannuation Fund under authority of the *Teachers' Superannuation Act, 1983* but shall be in addition to all sums of money authorized to be raised by way of loan under any other Act.

Idem

1983, c. 84

**2.** No money shall be raised by way of loan under subsection 1 (1) except to the extent authorized by order of the Lieutenant Governor in Council made on or before the 30th day of September, 1990.

Limitation

**3.** This Act comes into force on the day it receives Royal Assent.

Commence-  
ment

**4.** The short title of this Act is the *Ontario Loan Act, 1989*.

Short title

# THE HISTORY OF THE CITY OF BOSTON

FROM THE  
FUNDAMENTALS OF THE  
CITY OF BOSTON

BY  
J. A. COOK

OF THE  
CITY OF BOSTON

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# Bill 17

*(Chapter 35  
Statutes of Ontario, 1989)*

## **An Act to authorize the Raising of Money on the Credit of the Consolidated Revenue Fund**

**The Hon. R. Nixon**

*Treasurer of Ontario and Minister of Economics*

---

<i>1st Reading</i>	May 17th, 1989
<i>2nd Reading</i>	June 20th, 1989
<i>3rd Reading</i>	July 13th, 1989
<i>Royal Assent</i>	July 13th, 1989

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Bill 17

1989

## An Act to authorize the Raising of Money on the Credit of the Consolidated Revenue Fund

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

**1.**—(1) The Lieutenant Governor in Council is hereby authorized to raise from time to time by way of loan in any manner provided by the *Financial Administration Act* such sum or sums of money as are considered necessary for discharging any indebtedness or obligation of Ontario, for making any payments authorized or required by any Act to be made out of the Consolidated Revenue Fund or for reimbursing the Consolidated Revenue Fund for any moneys expended for any of such purposes, provided that the principal amount of any securities issued and temporary loans raised under the authority of this Act shall not exceed in the aggregate \$2,600,000,000.

Loans  
authorized

R.S.O. 1980,  
c. 161

(2) The sum of money authorized to be raised by subsection (1) for the purposes mentioned therein shall include the principal amounts of Province of Ontario debentures issued to the Teachers' Superannuation Fund under authority of the *Teachers' Superannuation Act, 1983* but shall be in addition to all sums of money authorized to be raised by way of loan under any other Act.

Idem

1983, c. 84

**2.** No money shall be raised by way of loan under subsection 1 (1) except to the extent authorized by order of the Lieutenant Governor in Council made on or before the 30th day of September, 1990.

Limitation

**3.** This Act comes into force on the day it receives Royal Assent.

Commence-  
ment

**4.** The short title of this Act is the *Ontario Loan Act*, 1989.

Short title

THE UNIVERSITY OF CHICAGO  
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# Bill 18

## **An Act to amend the Ontario Municipal Improvement Corporation Act**

The Hon. R. Nixon

*Treasurer of Ontario and Minister of Economics*

---

*1st Reading*      May 17th, 1989

*2nd Reading*

*3rd Reading*

*Royal Assent*



#### EXPLANATORY NOTE

The purpose of the Bill is to remove the borrowing limitation on the Corporation contained in section 14 of the Act in order to allow the Corporation to borrow Canada Pension Plan funds to offer to school boards as announced by the Treasurer in the Budget.

Bill 18

1989

**An Act to amend the  
Ontario Municipal Improvement Corporation Act**

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

**1.** Subsection 4 (1) of the *Ontario Municipal Improvement Corporation Act*, being chapter 349 of the Revised Statutes of Ontario, 1980, is amended by striking out "and to section 14" in the second line.

**2.** Section 14 of the said Act is repealed.

**3.** This Act comes into force on the day it receives Royal Assent. Commence-  
ment

**4.** The short title of this Act is the *Ontario Municipal Improvement Corporation Amendment Act, 1989*. Short title

THE HISTORY OF THE  
CITY OF BOSTON

FROM 1630 TO 1830

BY

JOSEPH NEASE

OF THE

COMMONS OF GREAT BRITAIN

IN PARLIAMENT ASSEMBLED

BY

JOSEPH NEASE

OF THE

COMMONS OF GREAT BRITAIN

IN PARLIAMENT ASSEMBLED

BY

JOSEPH NEASE

OF THE

COMMONS OF GREAT BRITAIN

IN PARLIAMENT ASSEMBLED

# Bill 18

*(Chapter 57  
Statutes of Ontario, 1989)*

## **An Act to amend the Ontario Municipal Improvement Corporation Act**

The Hon. R. Nixon  
*Treasurer of Ontario and Minister of Economics*

---

<i>1st Reading</i>	May 17th, 1989
<i>2nd Reading</i>	June 20th, 1989
<i>3rd Reading</i>	November 22nd, 1989
<i>Royal Assent</i>	November 23rd, 1989

---





**Bill 18****1989**

**An Act to amend the  
Ontario Municipal Improvement Corporation Act**

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

**1.** Subsection 4 (1) of the *Ontario Municipal Improvement Corporation Act*, being chapter 349 of the Revised Statutes of Ontario, 1980, is amended by striking out “and to section 14” in the second line.

**2.** Section 14 of the said Act is repealed.

**3.** This Act comes into force on the day it receives Royal Assent. Commence-  
ment

**4.** The short title of this Act is the *Ontario Municipal Improvement Corporation Amendment Act, 1989*. Short title



# Bill 19

## An Act to amend the Power Corporation Act

The Hon. R. Wong

*Minister of Energy*

*1st Reading*      May 17th, 1989

*2nd Reading*

*3rd Reading*

*Royal Assent*



#### EXPLANATORY NOTE

The Bill imposes the debt guarantee fee announced in the Treasurer's Budget to require Ontario Hydro to pay fees to the Province in respect of guarantees given or advances made by the Province. This provision applies to outstanding as well as future debt. The fees will be paid in accordance with the regulations that may be made under the proposed subsection 55a (3).

# Bill 19

1989

## An Act to amend the Power Corporation Act

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

**1. The *Power Corporation Act*, being chapter 384 of the Revised Statutes of Ontario, 1980, is amended by adding thereto the following section:**

**55a.**—(1) The Corporation, pursuant to the regulations made under this section, shall pay annually to the Treasurer of Ontario fees, Fees re: debt

(a) in respect of guarantees given by the Lieutenant Governor in Council under this Act; and

(b) in respect of sums advanced or applied under section 47.

(2) Subsection (1) applies in respect of guarantees given and sums advanced or applied before or after the coming into force of this section. Application

(3) The Lieutenant Governor in Council may make regulations respecting the calculation of the fees referred to in subsection (1) and respecting the manner in which, and the time at which, they are to be paid. Regulations

**2. This Act comes into force on the day it receives Royal Assent.** Commence-  
ment

**3. The short title of this Act is the *Power Corporation Amendment Act, 1989*.** Short title

THE UNIVERSITY OF CHICAGO

CHICAGO, ILL.

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# Bill 19

(Chapter 36  
*Statutes of Ontario, 1989*)

## **An Act to amend the Power Corporation Act**

The Hon. R. Wong  
*Minister of Energy*

<i>1st Reading</i>	May 17th, 1989
<i>2nd Reading</i>	June 26th, 1989
<i>3rd Reading</i>	July 13th, 1989
<i>Royal Assent</i>	July 13th, 1989





## Bill 19

1989

## An Act to amend the Power Corporation Act

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

**1.** The *Power Corporation Act*, being chapter 384 of the Revised Statutes of Ontario, 1980, is amended by adding thereto the following section:

**55a.**—(1) The Corporation, pursuant to the regulations made under this section, shall pay annually to the Treasurer of Ontario fees, Fees re: debt

(a) in respect of guarantees given by the Lieutenant Governor in Council under this Act; and

(b) in respect of sums advanced or applied under section 47.

(2) Subsection (1) applies in respect of guarantees given and sums advanced or applied before or after the coming into force of this section. Application

(3) The Lieutenant Governor in Council may make regulations respecting the calculation of the fees referred to in subsection (1) and respecting the manner in which, and the time at which, they are to be paid. Regulations

**2.** This Act comes into force on the day it receives Royal Assent. Commence-  
ment

**3.** The short title of this Act is the *Power Corporation Amendment Act, 1989*. Short title

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# Bill 20

## **An Act to provide for the Payment of Development Charges**

**The Hon. J. Eakins**  
*Minister of Municipal Affairs*

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*1st Reading*      May 17th, 1989  
*2nd Reading*  
*3rd Reading*  
*Royal Assent*

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## EXPLANATORY NOTES

The *Planning Act, 1983* currently permits municipalities to impose lot levies on plans of subdivision, and on consents to sever land, to cover some of the costs to municipalities of servicing the resultant growth. The purpose of the Bill is to permit both municipalities and school boards to impose development charges on all types of development that will increase the need for municipal services or school facilities. The Bill also provides authority for agreements between owners and municipalities to allow owners under certain conditions to develop their land earlier than the servicing plans of the municipalities would otherwise permit. Municipalities would then reimburse those owners for their additional costs from development charges subsequently received from other owners of land benefiting from those services.

The principal provisions of the Bill are as follows:

### **PART I — Development charges**

Municipalities may pass by-laws imposing development charges, on types of development specified in the by-law, for the municipal services specified. Development charges could not be imposed on expansions of existing dwelling units, or on the creation of additional units in existing residential buildings, if done in accordance with the regulations. Also, development charges could not be imposed with respect to certain local services which are normally installed by the person developing the land.

Procedures are established for passing development charge by-laws and for appealing them to the Ontario Municipal Board. The Board could lower or repeal development charges, but not increase them. If an appeal is successful, municipalities would be required to refund the charges already paid.

Development charge by-laws would expire after five years. Municipalities could pass new by-laws before this occurred.

Owners may complain to municipal councils regarding errors in the calculation of development charges and may appeal council decisions to the Ontario Municipal Board.

A development charge must be paid before a building permit is issued, except in specified circumstances. Municipalities may agree to permit owners to provide services in lieu of paying development charges.

Development charges are generally to be collected by lower tier municipalities, although they may be collected by upper tier municipalities as well.

Development charges may be registered as liens on lands subject to them.

Unpaid development charges are to be added to municipal tax rolls and collected as taxes.

Municipalities may give owners a credit for services installed under existing *Planning Act, 1983* provisions, and under other specified legislation.

Municipalities are to place development charge funds received in separate reserve funds.

Municipalities must pay interest on refunds of development charges.

### **PART II — Front-end payment**

Municipalities may enter into agreements with owners who wish to accelerate development of their lands, and to have those owners pay municipalities for the installation of water, sanitary and storm sewers, and roads required to accelerate development, to collect the extra costs from other owners who subsequently benefit from those services, and

to reimburse the front-ending owners from development charges subsequently paid by the other benefiting owners.

Owners are to be given notice of front-end agreements and to be permitted to appeal them to the Ontario Municipal Board.

Agreements may be registered on land benefiting from them, and municipalities may enforce them against owners and subsequent owners.

Municipalities may enforce agreements against owners of land benefiting from services installed under the agreements.

### **PART III — Education development charges**

School boards may establish by by-law an education development charge to finance all or part of the local share of the costs of new schools or additions to schools required because of growth. The education development charge may apply to residential and non-residential development.

Notice provisions and appeal procedures are similar to those contained in Part II.

The Bill also provides for the collection of the education development charge by the municipality. An education development charges account shall be established in respect of the money collected under the charge to be used for an approved capital project.

If two or more school boards, which share an area of jurisdiction, pass a by-law to impose an education development charge upon the same area, the money collected is to be placed in a joint account to be used by the boards as directed by the Minister of Education.

Withdrawals from an education development charges account can only be made for school construction projects which have the approval of the Minister of Education and have been recognized for capital grant purposes.

### **PART IV — General**

Existing by-laws providing for development charges are to terminate within specified periods.

No new development charges may be imposed under the *Planning Act, 1983*, but existing agreements providing for development charges are to remain in effect.

Existing referrals or appeals under the *Planning Act, 1983* regarding development charges are to be continued and disposed of under the *Planning Act, 1983*.

Agreements under the subdivision and consent provisions of the *Planning Act, 1983* are not to be affected by this Bill, except as those agreements apply to charges related to development.



Bill 20

1989

## An Act to provide for the Payment of Development Charges

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HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

Definitions

**1. In this Act,**

“area municipality” means,

- (a) a town, other than a separated town, township or village in a county, and
- (b) a city, town, village or township in a regional, metropolitan or district municipality;

1983, c. 1

“benefiting area” means an area designated for development in an official plan approval under the *Planning Act, 1983* and defined by a map, plan or legal description in a front-ending agreement as an area that will be serviced by or receive a benefit from the construction of a front-end service;

“capital cost” means costs incurred or proposed to be incurred by a municipality,

- (a) to acquire or improve land,
- (b) to acquire, construct or improve buildings, structures or facilities, and
- (c) to undertake studies in connection with any of the matters in clause (a) or (b),

required for the provision of services, including interest on borrowing for that part of expenditures made under clause (a) or (b) that is growth-related, but does not include costs incurred or proposed to be incurred to acquire vehicles, furniture, office equipment, supplies, inventory or similar items;

“development charge” means a charge imposed with respect to growth-related net capital costs against land under a by-law passed under section 3;

“development charge by-law” means a by-law passed under section 3;

“front-end payment” means a payment made by an owner, that may be in addition to a development charge that such owner is required to pay under a development charge by-law, in an amount agreed upon by the owner and munic-

ipality, to cover the net capital cost of any or all of the front-end services required to enable the land to be developed by the owner;

“front-end services” means water supply services, sanitary sewer services, storm sewer services and road services, for which a development charge may be imposed;

“front-ending agreement” means an agreement made under section 20;

“growth-related net capital cost” means the portion of the net capital cost of services that is reasonably attributable to the need for such net capital cost that results or will result from development in all or a defined part of the municipality;

“municipality” means a city, town, village, township, improvement district or county or a regional, metropolitan or district municipality;

“Municipal Board” means the Ontario Municipal Board;

“net capital cost” means the capital cost less capital grants, subsidies and other contributions made to the municipality or that the council of the municipality anticipates will be made, in respect of the capital cost;

“owner” means the owner of land or a person who has made application for an approval for the development of land upon which a development charge is imposed;

“prescribed” means prescribed by regulations made under this Act;

“services” means services designated in a development charge by-law;

“upper tier municipality” means a county or a regional, metropolitan or district municipality.

**2.** The Minister of Municipal Affairs is responsible for the administration of Parts I, II and IV and the Minister of Education is responsible for the administration of Part III.

Adminis-  
tration

## PART I

### DEVELOPMENT CHARGES

**3.—(1)** The council of a municipality may pass by-laws for the imposition of development charges against land if the

By-laws  
respecting  
development  
charges

development of the land would increase the need for services in respect of that land and the development requires,

- 1983, c. 1
- (a) the approval of a zoning by-law or of an amendment thereto under section 34 of the *Planning Act, 1983*;
  - (b) the approval of a minor variance under section 44 of the *Planning Act, 1983*;
  - (c) the approval of a plan of subdivision under section 50 of the *Planning Act, 1983*;
  - (d) a consent under section 52 of the *Planning Act, 1983*;
  - (e) the approval of a description under section 50 of the *Condominium Act*; or
  - (f) the approval of an application under the *Building Code Act* to permit the erection of a building or structure.
- R.S.O. 1980, c. 84
- R.S.O. 1980, c. 51

Exceptions

(2) Subsection (1) does not apply in respect of an approval mentioned in clauses (1) (a) to (f) that would have the effect only,

- (a) of permitting the enlargement of an existing dwelling unit; or
- (b) of creating one or two additional dwelling units as prescribed, in prescribed categories of existing residential buildings.

Mandatory provisions

- (3) A by-law passed under subsection (1) shall,
- (a) designate those uses of land, buildings or structures upon which a development charge shall be imposed;
  - (b) designate the areas within which a development charge shall be imposed;
  - (c) establish the development charge, or the schedule of development charges, to be imposed in respect of the designated uses of land, buildings or structures; and
  - (d) designate services for which a development charge may be imposed.



(4) A by-law passed under subsection (1) may,

Other  
provisions

- (a) provide for the indexing of development charges based on one of the prescribed indices; and
- (b) provide that a development charge shall be payable in money or by the provision of services or by a combination of both as may be agreed upon under subsection 9 (4) by the municipality and the owner.

(5) No land, except land used for the purpose of an elementary or secondary school under the *Education Act* or land owned by and used for the purposes of a municipality, is exempt from a development charge under a by-law passed under subsection (1) by reason only that it is exempt from taxation under section 3 of the *Assessment Act*.

Limited  
exemption  
R.S.O. 1980,  
cc. 129, 31

(6) No development charge may be imposed with respect to,

Restriction  
on  
development  
charges

(a) local services installed at the expense of the owner within a plan of subdivision as a condition of approval under section 50 of the *Planning Act*, 1983;

1983, c. 1

(b) local services installed at the expense of the owner as a condition of approval under section 52 of the *Planning Act*, 1983; or

(c) local connections to water mains, sanitary sewers and storm sewers.

4.—(1) Before passing a development charge by-law, except a by-law passed pursuant to an order of the Municipal Board made under clause (11) (b), the council,

Public  
meeting

- (a) shall hold at least one public meeting;
- (b) shall give notice of the meeting in the manner and to the persons and organizations prescribed; and
- (c) shall ensure that sufficient information is made available at the meeting to enable the public to understand generally the development charges proposal.

(2) The meeting referred to in subsection (1) shall be held no earlier than twenty days after the requirements for the giving of notice have been complied with and any person who

Right to be  
heard



attends the meeting may make representations in respect of the proposed development charges.

Notice of  
by-law

(3) If the council passes a development charge by-law, except a by-law passed pursuant to an order of the Municipal Board under clause (11) (b), the clerk of the municipality shall, not later than fifteen days after the day the by-law is passed, give written notice of the passing of the by-law in the form and to the persons and organizations prescribed and the notice shall specify the last day for filing a notice of appeal under subsection (4).

Appeal

(4) Any person or organization may, not later than twenty days after written notice under subsection (3) is given, appeal to the Municipal Board by filing with the clerk of the municipality a notice of appeal setting out the objection to the by-law and the reasons in support of the objection.

Timing of  
notice

(5) For the purposes of subsection (4), the written notice shall be deemed to be given,

- (a) where notice is given by publication in a newspaper, on the day that the publication occurs;
- (b) where notice is given by personal service, on the day that service of all required notices is completed; or
- (c) where notice is given by mail, on the day that the mailing of all required notices is completed.

Record

(6) The clerk of a municipality who receives a notice of appeal shall compile a record which shall include,

- (a) a copy of the by-law certified by the clerk;
- (b) an affidavit or declaration certifying that the requirements for the giving of notice under subsection (3) have been complied with; and
- (c) the original or a true copy of all written submissions and material received in respect of the by-law before it was passed.

Notice and  
record to  
O.M.B.

(7) The clerk shall forward the notice of appeal and the record to the secretary of the Municipal Board within thirty days of the last day of appeal and shall provide such other information or material as the Board may require in respect of the appeal.

(8) An affidavit or declaration of the clerk of the municipality that notice was given as required by subsection (3) or that no notice of appeal was filed under subsection (4) within the time allowed for appeal is conclusive evidence of the facts stated therein.

Affidavit,  
declaration  
conclusive  
evidence

(9) The Municipal Board shall hold a hearing of which notice shall be given to such persons or organizations and in such manner as the Board may determine.

Hearing

(10) The Municipal Board may, where it is of the opinion that the objection to the by-law set out in the notice of appeal is insufficient, dismiss the appeal without holding a full hearing but before dismissing the appeal shall notify the appellant and give the appellant an opportunity to make representations as to the merits of the appeal.

Early  
dismissal of  
appeal

(11) The Municipal Board may,

Determi-  
nation by  
O.M.B.

(a) dismiss the appeal; or

(b) order the council of the municipality to repeal the by-law in whole or in part or to amend the by-law in accordance with the Board's order.

(12) Despite subsection (11), the Municipal Board may not order the amendment of a by-law so as to,

Restrictions  
on  
amendments

(a) increase a development charge imposed by the by-law; or

(b) alter the term of the by-law.

5.—(1) A development charge by-law comes into force on the day it is passed.

When by-law  
effective

(2) If the Municipal Board orders the council of a municipality to repeal a by-law in whole or in part, that part of the by-law that is repealed shall be deemed to have been repealed on the day the by-law was passed.

Retroactive  
repeal

(3) If a by-law is repealed in whole or in part under subsection 4 (11), the municipality shall immediately refund all development charges paid under that part of the by-law that is repealed.

Refund

(4) If the Municipal Board orders the council of a municipality to amend a by-law in whole or in part, that part of the by-law that is amended ceases to be in force, and the amend-

Retroactive  
amendments

ment shall be deemed to have come into force on the day the by-law that is being amended was passed.

Refunds

(5) If a by-law is amended in whole or in part under subsection 4 (11), the municipality shall immediately refund the difference between the development charge paid under that part of the by-law that is amended and the development charge required to be paid under the amendment.

Restrictions  
on appeal

(6) A repeal or amendment made under subsection 4 (11) is not subject to appeal under subsection 4 (4).

Notice of  
by-law

(7) A municipality shall give notice of the particulars of a development charge by-law that is in force in the manner and to the persons prescribed.

Expiration of  
by-law

6.—(1) A development charge by-law expires five years after the date it is passed.

Idem

(2) Despite subsection (1), the council of a municipality may,

(a) provide in the by-law for a term of less than five years; or

(b) repeal the by-law.

Term of  
by-law

(3) Amendments to a by-law by council under subsection 4 (11) or 7 (1) do not affect the term of the by-law.

New by-law

(4) Subject to subsections (5), (6) and (7), the council of a municipality in which a development charge by-law is in force may pass a new development charge by-law.

Review of  
policies

(5) Before passing a new development charge by-law, the council shall conduct a review of the development charge policies of the municipality.

Public  
meeting

(6) In conducting a review under subsection (5), council shall ensure that adequate information is made available to the public, and for this purpose shall hold at least one public meeting, notice of which shall be given in at least one newspaper having general circulation in the municipality.

Procedures

(7) Sections 4 and 5 apply with necessary modifications to the passing of a by-law under subsection (4).

Amendments

7.—(1) The council of a municipality which has passed a development charge by-law may amend the by-law.



(2) Sections 4 and 5 apply with necessary modifications to an amendment of a development charge by-law under subsection (1). Procedures

**8.—(1)** An owner may complain in writing to the council of the municipality that, Complaints

- (a) the calculation of the development charge imposed was based on an incorrect number of units;
- (b) the amount credited to an owner under section 13 is incorrect;
- (c) the amount of a previous development charge being credited under section 14 is incorrect; or
- (d) there was an error in the application of the development charge by-law.

(2) The complaint shall state the name and address where notices can be given to the complainant and shall state the reasons for the complaint. Idem

(3) Council shall give the complainant the opportunity to make representations and notice of the hearing shall be mailed to the complainant by the clerk not less than fourteen days before the date the complaint is to be considered. Hearing

(4) After hearing the evidence and submissions of the complainant, council may, Determination by council

- (a) confirm the development charge; or
- (b) amend the development charge to the extent that, in the opinion of council, a review of any or all of the matters in subsection (1) justifies such an amendment.

(5) The clerk of the municipality shall, not later than fifteen days after the day a decision is made by council, give written notice of the decision by mail to the complainant, and the notice shall specify the last day for filing an appeal, which date shall be no earlier than twenty days after the date the letter is mailed. Notice of decision

(6) The complainant may appeal the decision of council to the Municipal Board by filing with the clerk of the municipality a notice of appeal setting out the reasons for the appeal. Appeal



Record

(7) The clerk of the municipality who receives a notice of appeal under subsection (6) shall compile a record which shall include,

- (a) a copy of the development charge by-law certified by the clerk;
- (b) an affidavit or declaration certifying that the requirements for the giving of notice have been complied with; and
- (c) the original or a true copy of all written submissions and material in support of the complaint.

Notice and  
record to  
O.M.B.

(8) The clerk shall forward the notice of appeal and the record to the secretary of the Municipal Board within thirty days of the last day of appeal and shall provide such other information and material that the Board may require in respect of the appeal.

Parties

(9) The parties to the appeal are the complainant and the municipality.

Notice of  
hearing

(10) The Municipal Board shall hold a hearing of which notice shall be given to the parties to the appeal.

Early  
dismissal

(11) Despite subsection (10), the Municipal Board may, where it is of the opinion that the complaint set out in the notice of appeal is insufficient, dismiss the appeal without holding a full hearing but before dismissing the appeal shall notify the appellant and give the appellant an opportunity to make representations as to the merits of the appeal.

Decision by  
O.M.B.

(12) The Municipal Board may make any decision that could have been made by the council of the municipality.

Refund

(13) If the development charge is amended by the council or by the Municipal Board, the municipality shall immediately refund the difference between the development charge paid that was in dispute and the amount of the charge required by council or the Municipal Board to be paid.

Charge to be  
paid before  
building  
permit issued

**9.—**(1) Despite any other Act, a building permit shall not be issued in respect of the erection of a building or structure on land to which a development charge by-law applies unless the development charge has been paid.

Exception

(2) Despite subsection (1), a municipality may, in a development charge by-law, provide that a development charge with respect to water supply services, sanitary sewer services,

storm sewer services and road services shall be payable, with respect to an approval of a plan of subdivision under section 50 of the *Planning Act, 1983*, immediately upon entering into the subdivision agreement. 1983, c. 1

(3) Despite subsections (1) and (2), a municipality may enter into an agreement with an owner providing for the payment of all or any portion of the development charge on dates later than the issuing of a building permit or the entering into of a subdivision agreement. Exceptions in agreements

(4) Despite subsections (1) and (2), a municipality may by agreement permit an owner to provide services in lieu of the payment of all or any portion of a development charge. Services in lieu of payment

(5) A municipality that has entered an agreement under subsection (3) may charge interest, at a rate stipulated in the agreement, on that part of the development charge not paid in accordance with subsection (1). Interest

**10.**—(1) If a development charge is imposed by an upper tier municipality, the treasurer of the upper tier municipality shall certify to the treasurer of the area municipality in which the land is located that the charge has been imposed, and when the charge is due. Upper tier municipalities

(2) The treasurer of the area municipality shall collect the charge imposed by the upper tier municipality when due and shall, unless an extension of time is agreed to by the upper tier municipality, remit the amount of the charge to the treasurer of the upper tier municipality on or before the 25th day of the month following the month in which the charge is received by the area municipality. Collection of development charges

(3) Despite subsection (2), a development charge imposed by an upper tier municipality under subsection 9 (2) or (3) may be collected by the upper tier municipality. Idem

(4) The treasurer of an upper tier municipality that has collected a development charge under subsection (3) shall certify to the treasurer of the area municipality in which the land is located that the charge has been collected. Certification

(5) If building permits are issued by an upper tier municipality, the chief building official of the upper tier municipality shall certify to the treasurer of the area municipality in which the land is located that all applicable law within the meaning of the *Building Code Act*, except the payment of development charges, has been complied with. Idem

Idem

(6) The treasurer of the area municipality shall, upon receipt of the certificate under subsection (5) and upon payment of all development charges and education development charges under Part III imposed on the development, immediately certify to the chief building official of the upper tier municipality that all development charges and education development charges have been paid.

Delegation of  
collection  
powers

(7) If building permits are issued by an upper tier municipality, the upper tier municipality may, if agreed to by the area municipality, collect all development charges and education development charges.

Lien

**11.**—(1) A municipality that has passed a development charge by-law may register or deposit, as the case may be, a lien or notice thereof on the land upon which a development charge has become payable.

Charge upon  
land

(2) The development charge shall, from the date of registration or deposit under subsection (1), be a charge upon the land to which the development charge applies.

Collection

**12.**—(1) If the development charge or any part thereof imposed by a municipality, other than an upper tier municipality, remains unpaid after the due date, the amount unpaid shall be added to the tax roll and shall be collected as taxes.

Idem

(2) If the development charge or any part thereof imposed by an upper tier municipality remains unpaid after the due date, the treasurer of the upper tier municipality shall certify to the treasurer of the area municipality in which the land is located that the amount is unpaid and the amount unpaid shall be added to the tax roll of the area municipality and shall be collected as taxes.

Credit for  
services

**13.**—(1) A municipality that permits the provision of services in lieu of the payment of all or any portion of a development charge shall give a credit for an amount equal to the reasonable cost to the owner of providing the services.

Idem

(2) If a municipality and owner enter an agreement that permits an owner to provide services additional to or of a greater size or capacity than is required under a development charge by-law, the municipality may agree to give a credit for an amount up to the reasonable cost to the owner of providing the services.

Idem

(3) A credit given under subsection (2) shall not be charged to a reserve fund established under section 16.



**14.—**(1) If an owner or a former owner has, before the coming into force of a development charge by-law, paid all or any portion of a charge related to development pursuant to an agreement under section 50 or 52 of the *Planning Act, 1983* or a predecessor thereof with respect to land within the area to which the by-law applies, the municipality shall give a credit for the amount of the charge paid.

Credits

1983, c. 1

(2) If an owner or a former owner has, before the coming into force of a development charge by-law, provided services in lieu of the payment of all or any portion of a charge related to development pursuant to an agreement under section 50 or 52 of the *Planning Act, 1983* or a predecessor thereof with respect to land within the area to which the by-law applies, the municipality shall give a credit for an amount equal to the reasonable cost to the owner or to the former owner of providing the services.

Idem

(3) If an owner is required to pay a charge to a municipality under a by-law passed under section 215 of the *Municipal Act*, section 4 of *The City of Ottawa Act, 1960-61* or section 1 of *The City of Toronto Act, 1961-62*, the municipality shall reduce the development charge payable under the development charge by-law by an amount equal to the charge imposed by that by-law.

Idem

R.S.O. 1980,  
c. 302;  
1960-61,  
c. 120;  
1961-62,  
c. 171

(4) If a conflict exists between the provisions of a development charge by-law and an agreement referred to in subsection (1) or (2), the provisions of the agreement prevail to the extent of the conflict.

Conflicts

(5) If a conflict exists between the provisions of a development charge by-law and any other agreement between a municipality and an owner or a former owner with respect to land within the area to which the by-law applies, the provisions of the agreement prevail to the extent that there is a conflict.

Idem

**15.—**(1) If an owner requests two or more approvals described in subsection 3 (1) in respect of land, a municipality shall not levy more than one development charge.

Multiple  
approvals

(2) Despite subsection (1), if an owner requests an approval described in subsection 3 (1) and the owner subsequently requests one or more additional approvals that have the effect of increasing the need for services beyond that generated by the initial approval, a municipality may require the payment of an additional development charge based on the increased need for services.

Idem



- Reserve fund      **16.**—(1) Payments received by a municipality under this Part shall be maintained in a separate reserve fund or funds and shall be used only to meet the growth-related net capital costs of those services for which the development charge was imposed.
- R.S.O. 1980,  
c. 302,  
s. 165  
applies      (2) Subsections 165 (2), (3) and (4) of the *Municipal Act* apply with necessary modifications to payments received by a municipality under this Part.
- Statement of  
treasurer      **17.** The treasurer of the municipality shall, in each year, on or before such date as council may direct, furnish to the council a statement in respect of each reserve fund established under section 15 containing the information prescribed.
- Interest      **18.**—(1) A municipality shall pay interest to persons to whom overpayments are refunded under subsection 5 (3), 5 (5) or 8 (13) calculated in the manner prescribed.
- Idem      (2) Interest shall be calculated from the time that the overpayment was collected to the time that the refund is paid.
- Idem      (3) The refund shall include the interest owed.
- Regulations      **19.** The Lieutenant Governor in Council may make regulations,
- (a) prescribing, for the purposes of section 3, the manner in which development charges shall be calculated;
  - (b) prescribing the number of additional dwelling units and the categories of existing residential buildings for the purposes of clause 3 (2) (b);
  - (c) prescribing, for the purposes of section 3, those services for which development charges shall not be imposed;
  - (d) prescribing, for the purposes of clause 3 (4) (a), an index or indices that may be used;
  - (e) prescribing, for the purposes of subsection 4 (1), the persons that are to be given notice and the manner in which notice is to be given;
  - (f) prescribing, for the purposes of subsection 4 (3), the persons and agencies that are to be given notice and the manner and form in which notice is to be given;

- (g) prescribing, for the purposes of subsection 5 (7), the information to be provided in the notice and the persons to whom notice is to be given;
- (h) prescribing, for the purposes of section 13, the manner in which credits shall be calculated;
- (i) prescribing the information to be provided in a statement of the treasurer under section 17;
- (j) prescribing methods of calculating and establishing interest rates under section 18;
- (k) prescribing anything that in Parts I, II and IV of this Act may be prescribed by regulation.

## PART II

### FRONT-END PAYMENTS

**20.—**(1) A municipality that has in effect a development charge by-law may enter into a front-ending agreement or agreements with any or all owners within a benefiting area providing for the payment by the owners of a front-end payment. Front-end payment

(2) An agreement entered into under subsection (1) shall contain, Agreement

- (a) a list of the front-end services for which front-end payments shall be made;
- (b) the estimated cost of installing the services;
- (c) the proportion of the front-end payment to be paid by each owner who is a party to the agreement;
- (d) the agreement of the owners to immediately pay to the municipality the actual costs incurred by the municipality in the installation of the services in accordance with the proportions determined under clause (c);
- (e) the agreement of the municipality to immediately reimburse the owners if the actual cost of installing the services is lower than the estimated cost in accordance with the proportions determined under clause (c);

- (f) a description of the benefiting area for each of the services;
- (g) the manner in which the portion of the front-end payment that each owner in the benefiting area, other than the parties to the front-end agreement, is to be calculated; and
- (h) subject to clause (g), the agreement of the municipality to require each owner in the benefiting area, other than an owner who is a party to the agreement, to pay the owner's portion of the front-end payment.

Idem

(3) An agreement under subsection (2) may provide that the front-end payment shall be payable in money, or by the provision of services in lieu thereof, or by a combination of both, as may be agreed upon by the parties.

Idem

(4) An agreement under subsection (2) shall provide the methods by which amounts payable under clause (2) (h) shall be adjusted.

Notice of agreement

**21.**—(1) The municipality shall give notice by mail of the front-ending agreement to all owners within the benefiting area.

Contents of notice

(2) The notice referred to in subsection (1) shall explain the nature and purpose of the agreement and shall indicate that the agreement can be viewed in the office of the clerk during normal office hours.

Objections

(3) Any owner to whom notice of the agreement is given, except a party to the agreement, may object to the agreement by filing a written objection with the clerk of the municipality within twenty-one days of the date of mailing of the notice of the agreement.

Effective date of agreement

(4) If no objection is filed within twenty-one days, the agreement shall be deemed to have come into effect on the date it was fully executed.

Objections to O.M.B.

(5) If an objection is filed, the clerk shall immediately forward it to the Municipal Board.

Hearing to O.M.B.

(6) The Municipal Board shall hold a hearing and shall confirm the agreement, refuse to confirm the agreement or direct a municipality to make changes to the agreement.



(7) If an objection is filed under subsection (3), the agreement comes into effect when approved by the Municipal Board or, if changes are directed by the Board, when the municipality and the other parties to the agreement have executed the agreement as directed to be changed by the Board.

Effective  
date where  
objection

(8) The parties to the Municipal Board hearing are the municipality, the other parties to the agreement and the owners who filed written objections within the period referred to in subsection (3).

Parties

**22.** Section 64 of the *Ontario Municipal Board Act* does not apply to a front-ending agreement or to special accounts established under sections 26 and 27.

O.M.B.  
approval not  
required  
R.S.O. 1980,  
c. 347

**23.** A notice of an agreement entered into under section 20 may be registered against the land in the benefiting area, and subject to the *Registry Act* and the *Land Titles Act*, the municipality,

Registration

R.S.O. 1980,  
cc. 445, 230

(a) may enforce the provisions of the agreement against any and all subsequent owners of the lands owned by the parties thereto; and

(b) may enforce the provisions of the agreement made under clauses 20 (2) (g) and (h) and section 25 against any and all owners and subsequent owners of lands in the benefiting area.

**24.** If a front-ending agreement is in effect, no person shall undertake any development that requires an approval mentioned in subsection 3 (1) within a benefiting area until section 25 has been complied with.

Compliance  
necessary

**25.** A municipality that has entered into a front-ending agreement,

Conditions of  
agreement

(a) shall require an owner within a benefiting area, other than a party to the agreement, to pay the owner's portion of the front-end payment as a condition of approval of any development on that portion of the owner's land located within the benefiting area; and

(b) may require all owners in a benefiting area, including owners who are parties to the agreement, to pay the reasonable costs to the municipality of administering the agreement, including the cost to the municipality of consultants and of studies required in preparation of the agreement.



Special  
accounts

**26.**—(1) The municipality shall place all money received from the parties to the front-ending agreement in a special account and shall use the funds in such account only for,

- (a) paying the actual net cost of the installation of the services specified in the agreement; and
- (b) reimbursing to the parties to the agreement any funds remaining in the account after the installation of the services referred to in clause (a).

Idem

(2) The municipality shall provide annually to the parties to the front-ending agreement a statement setting out the particulars of payments made out of the account, the balance remaining in the account and additional payments, if any, that are or will be required from the parties pursuant to the agreement.

Special  
account for  
section 25  
funds

**27.**—(1) The municipalities shall place money received under section 25 in a special account and shall, immediately upon receipt of the money, pay it over to the parties of the front-ending agreement in the proportions stated in the agreement.

Reimburse-  
ment

(2) The municipality shall reimburse the parties to the agreement only at the time of and upon the payment of the money referred to in subsection (1).

Deduction  
from  
development  
charge

(3) Payments made under subsection (1) with respect to services referred to in clause 20 (2) (a) shall be deducted from the amount otherwise payable by an owner pursuant to a development charge by-law.

### PART III

#### EDUCATION DEVELOPMENT CHARGES

Definitions

**28.** In this Part,

R.S.O. 1980,  
c. 129

“board” means a board in paragraph 3 of subsection 1 (1) of the *Education Act*, other than,

- (a) a board established under section 70 of the *Education Act*,
- (b) a board of education for an area municipality in The Municipality of Metropolitan Toronto,
- (c) The Metropolitan Toronto French-Language School Council, and

- (d) The Ottawa-Carleton French-language School Board,

but includes the public sector and the Roman Catholic sector of The Ottawa-Carleton French-language School Board and The Metropolitan Toronto School Board;

“commercial development” means an approval of a development other than a residential development;

“education capital cost” means costs incurred or proposed to be incurred by a board,

- (a) to acquire school facilities,
- (b) to construct, expand, alter or improve school facilities, and
- (c) to undertake studies in connection with any of the matters in clause (a) or (b),

to provide pupil accommodation;

“education development charge” means a development charge imposed under a by-law passed under section 29 respecting growth-related net education capital costs incurred or proposed to be incurred by a board;

“education development charge by-law” means a by-law passed under subsection 29 (1);

“education development charges account” means an account established in accordance with the regulations for money collected under an education development charge by-law;

“growth-related net education capital cost” means the portion of the net education capital cost reasonably attributable to the need for such net education capital cost that is attributed to or will result from development in all or part of the area of jurisdiction of a board;

“net education capital cost” means the education capital cost reduced by any capital grants and subsidies paid or that may be paid to the board in respect of such education capital cost;

“owner” means the owner of the land or a person who has made application for an approval for the development of the land upon which an education development charge is imposed;

“pupil accommodation” means a building to accommodate pupils or an addition or alteration to a building that enables the building to accommodate an increased number of pupils;

“residential development” means an approval of a development that provides residential accommodation;

“school facilities” means a school site in paragraph 53 of subsection 1 (1) of the *Education Act*.

R.S.O. 1980,  
c. 129

Education  
development  
charge by-law

**29.—**(1) A board may pass by-laws for the imposition of an education development charge against land in the area of jurisdiction of the board, in respect of residential development or residential and commercial development, if there is residential development in the area of jurisdiction of the board that would increase education capital costs and the residential or commercial development requires,

1983, c. 1

(a) the approval of a zoning by-law or of an amendment thereto under section 34 of the *Planning Act, 1983*;

(b) the approval of a minor variance under section 44 of the *Planning Act, 1983*;

(c) the approval of a plan of subdivision under section 50 of the *Planning Act, 1983*;

(d) a consent under section 52 of the *Planning Act, 1983*;

R.S.O. 1980,  
c. 84

(e) the approval of a description under section 50 of the *Condominium Act*; or

R.S.O. 1980,  
c. 51

(f) the approval of an application under the *Building Code Act* to permit the erection of a building or structure.

Exception

(2) Subsection (1) does not apply in respect of an approval mentioned in clauses (1) (a) to (f) that would have the effect only,

(a) of permitting the enlargement of an existing dwelling unit; or

(b) of creating one or two additional dwelling units as prescribed, in prescribed categories of existing residential buildings.



(3) A by-law passed under subsection (1) shall,

Contents of  
by-law

- (a) designate the categories of residential development and commercial development upon which an education development charge shall be imposed;
- (b) designate those uses of land, buildings or structures upon which an education development charge shall be imposed;
- (c) designate the areas in which an education development charge shall be imposed; and
- (d) in accordance with the regulations, establish the education development charge, or the schedule of education development charges, to be imposed in respect of the designated categories of development and the uses of land, buildings or structures.

(4) A by-law passed under subsection (1) may provide for the indexing of education development charges based on one of the prescribed indices.

Indexing

(5) No land, except land used for the purposes of an elementary or secondary school under the *Education Act* or land owned by and used for the purposes of a municipality, is exempt from an education development charge under a by-law passed under subsection (1) by reason only that the property is exempt from taxation under section 3 of the *Assessment Act*.

Limited  
exemption  
R.S.O. 1980,  
cc. 129, 31

(6) The imposition of an education development charge by a board is subject to the conditions prescribed by the regulations.

Conditions

**30.**—(1) Before passing an education development charge by-law, except a by-law passed pursuant to an order of the Municipal Board made under clause (11) (b), the board,

Public  
meeting

- (a) shall hold at least one public meeting;
- (b) shall give notice of the meeting in the manner and to the persons and organizations prescribed; and
- (c) shall ensure that sufficient information is made available to enable the public to understand generally the education development charge proposal.

(2) The meeting referred to in subsection (1) shall be held no earlier than twenty days after the requirements for the giv-

Right to be  
heard



ing of notice have been complied with and any person who attends the meeting may make representations in respect of the proposed education development charges.

Notice of  
by-law

(3) If the board passes an education development charge by-law, other than a by-law passed pursuant to an order of the Municipal Board under clause (11) (b), the secretary of the board shall, not later than fifteen days after the day the by-law is passed, give written notice of the passing of the by-law in the manner and in the form and to the persons and organizations prescribed and the notice shall specify the last day for filing a notice of appeal under subsection (4).

Appeal

(4) Any person or organization may, not later than twenty days after written notice under subsection (3) is given, appeal to the Municipal Board by filing with the secretary of the board a notice of appeal setting out the objection to the by-law and the reasons in support of the objection.

Timing of  
notice

(5) For the purposes of subsection (4), written notice shall be deemed to be given,

- (a) where notice is given by publication in a newspaper, on the day that the publication occurs;
- (b) where notice is given by mail, on the day that the mailing of all required notices is completed; or
- (c) where notice is given by publication and by mail, on the later of the days that publication occurs or mailing is completed.

Record

(6) The secretary of the board who receives a notice of appeal shall compile a record which shall include,

- (a) a copy of the by-law certified by the secretary;
- (b) an affidavit or declaration certifying that the requirements for the giving of notice under subsection (3) have been complied with; and
- (c) the original or a true copy of all written submissions and material received in respect of the by-law before it was passed.

Notice and  
record to  
O.M.B.

(7) The secretary of the board shall forward the notice of appeal and the record to the secretary of the Municipal Board within thirty days of the last day of appeal and shall provide such other information or material as the Municipal Board may require in respect of the appeal.

(8) An affidavit or declaration of the secretary of the board that notice was given as required by subsection (3) or that no notice of appeal was filed under subsection (4) within the time allowed for appeal is conclusive evidence of the facts stated therein.

Affidavit,  
declaration  
conclusive  
evidence

(9) The Municipal Board shall hold a hearing of which notice shall be given to such persons or organizations and in such manner as the Municipal Board may determine.

Hearing

(10) The Municipal Board may, where it is of the opinion that the objection to the by-law set out in the notice of appeal is insufficient, dismiss the appeal without holding a full hearing but before dismissing the appeal shall notify the appellant and give the appellant the opportunity to make representations as to the merits of the appeal.

Early  
dismissal of  
appeal

(11) The Municipal Board may,

Determi-  
nation by  
O.M.B.

(a) dismiss the appeal; or

(b) order the board to repeal the by-law in whole or in part or amend the by-law in accordance with the order.

(12) Despite subsection (11), the Municipal Board may not order the amendment of a by-law so as to,

Restriction  
on  
amendments

(a) increase an education development charge imposed by the by-law; or

(b) alter the term of the by-law.

**31.—**(1) An education development charge by-law comes into force on the fifth day following the day it is passed or the day specified in the by-law, whichever is later.

When by-law  
effective

(2) If the Municipal Board orders a board to repeal a by-law in whole or in part, that part of the by-law that is repealed shall be deemed to have been repealed on the day the by-law came into force.

Retroactive  
repeal

(3) When a by-law is repealed in whole or in part under subsection 30 (11), the treasurer of the education development charges account shall immediately refund all education development charges paid pursuant to that part of the by-law that is repealed.

Refunds

(4) If the Municipal Board orders a board to amend a by-law in whole or in part, that part of the by-law that is

Retroactive  
amendments

amended ceases to be in force and the amendment shall be deemed to have come into force on the date the by-law came into force.

Refunds

(5) If a by-law is amended in whole or in part under subsection 30 (11), the treasurer of the education development charges account shall immediately refund the difference between the education development charge paid pursuant to that portion of the by-law that is amended and the education development charge required to be paid pursuant to the amendment.

Restrictions  
on appeal

(6) A repeal or amendment made under subsection 30 (11) is not subject to appeal under subsection 30 (4).

Direct refund

(7) A refund under this section shall be paid to the owner and the treasurer of the education development charges account shall inform the municipal treasurer of the amount of the refund.

Expiration of  
by-law

**32.—**(1) An education development charge by-law expires five years after the date it comes into force.

Idem

(2) Despite subsection (1), a board may,

(a) provide in the by-law for a term of less than five years; or

(b) repeal the by-law.

Concurrent  
terms

(3) Despite subsection (1), if an education development charge by-law is in force in respect of an area, the term of an education development charge by-law passed by another board with respect to the same area shall expire on the date of expiration of the first-mentioned by-law.

Change of  
term

(4) Where a board repeals its education development charge by-law and another board that has jurisdiction in all or part of the same area has passed a by-law that under subsection (3) would expire on the date of expiration of the first-mentioned by-law, that other board may determine that the by-law shall be in effect for up to five years after the date it comes into force and, where it does so, the board shall give notice of its determination to the same persons and in the same manner as provided under subsection 36 (1).

New  
education  
development  
charge by-law

(5) Subject to subsections (6), (7) and (8), a board that has passed an education development charge by-law that is in force may pass a new education development charge by-law.



(6) Before passing a new education development charge by-law, the board shall conduct a review of the education development charge policies of the board. Review of policies

(7) In conducting a review under subsection (6), the board shall ensure that adequate information is made available to the public, and for this purpose shall hold at least one public meeting, notice of which shall be given in at least one newspaper having general circulation in the area of jurisdiction of the board. Public meeting

(8) Sections 30 and 36 apply with necessary modifications to a by-law under subsection (5). Idem

**33.—**(1) A school board may amend an education development charge by-law and the amendment shall be deemed to have come into force on the day the by-law that is being amended came into force and the part of the by-law that is amended ceases to be in force. Amendments

(2) Sections 30 and 36 apply with necessary modifications to an amendment made under this section. Idem

**34.—**(1) An education development charge imposed by a board with respect to a residential development is the amount payable by the owner to the treasurer of the municipality under the education development charge by-law. Charges

(2) An education development charge imposed by a board with respect to a commercial development is, Idem, commercial development

(a) the amount obtained by applying the prescribed per cent, or a per cent determined by a board that is within a prescribed range of per cents, to the declared value of the building permit; or

(b) the amount on an area, unit or density basis calculated in the manner prescribed.

(3) A building permit shall not be issued in respect of the erection of a building or structure on land to which an education development charge by-law applies unless the development charge has been paid. Charge to be paid before building permit issued

(4) Despite subsection (1), and subject to subsection (5) and the consent of the Minister of Education, a board may by agreement permit an owner to provide school facilities in lieu of the payment of all or any portion of an education development charge and the board shall advise the treasurer of the Facilities in lieu of payment



municipality in which the land is situate of the amount of the credit.

Necessary parties

(5) If more than one board has jurisdiction in an area and one or more boards are to receive school facilities under subsection (4), all the boards are required to be parties to the agreement.

Complaints

**35.**—(1) An owner or board may complain in writing to the council of the municipality in which the land is situate or an owner may complain to the board in respect of territory without municipal organization that,

- (a) the calculation of the education development charge imposed was based on an incorrect number of units;
- (b) there was an error in the application of the education development charge by-law; or
- (c) the amount credited to an owner under subsection 34 (4) is incorrect.

Procedures adopted

(2) Subsections 8 (2) to (13) apply with necessary modifications to a complaint under subsection (1).

Refunds

(3) If a final determination of a complaint has been made and a refund is due to the owner, the treasurer of the education development charges account shall pay the amount of the refund to the treasurer of the municipality who shall reimburse the owner.

Idem

(4) If a final determination of a complaint has been made and a refund is due to the school board, the treasurer of the municipality shall pay the amount of the refund to the treasurer of the education development charges account.

Distribution of by-law

**36.**—(1) A board that passes a by-law under subsection 29 (1) shall submit to the treasurer of each municipality all or part of which is made subject to an education development charge a copy of the by-law and provide a copy to the secretary of any other board that has jurisdiction in the same or part of the same area of the board that passed the by-law and forward a copy to the Minister of Education.

Special account

(2) An education development charges account shall be established on or before the fifth day following the enactment of a by-law under subsection 29 (1).

Territory without municipal organization

(3) Where the area of jurisdiction of a board includes territory without municipal organization, all or part of which is

made subject to an education development charge, the board shall exercise the powers and duties of a municipal council for such territory in respect of collecting the charge and the officers of the board have the same powers and duties as similar officers in a municipality.

(4) Where an education development charge is imposed by a board, the treasurer of the municipality or board, as the case requires, shall collect the charge imposed when due and, on or before the 25th day of the month next following the month in which the charge is collected, shall deposit the amount of the charge in the education development charges account established in respect of the by-law under which the charge is imposed.

Collection of  
charge

(5) On or before the fifth day of the month following a month in which a deposit is made under subsection (4), the treasurer of the municipality shall forward to the treasurer of the board or the treasurer of the board shall prepare a statement setting out the prescribed information in respect of the period that began on the 26th day of the month before the preceding month and that ended on the 25th day of the preceding month.

Statement

(6) If two or more boards have imposed an education development charge by-law upon an area, the statement mentioned in subsection (5) shall be prepared in respect of the money collected and forwarded to the treasurer of each board that passed a by-law under which the money was collected.

Idem

**37.—**(1) A board that has passed an education development charge by-law may register or deposit, as the case requires, a lien or notice thereof, upon the land with respect to which the education development charge applies.

Lien

(2) The education development charge shall, from the date of registration or deposit, be a charge upon the land of the owner to which the education development charge applies.

Charge upon  
land

**38.** If an education development charge or any part thereof remains unpaid after the due date, the amount unpaid shall be added to the tax roll of the municipality and shall be collected as taxes and remitted to the treasurer of the education development charges account established in respect of the by-law under which the education development charge is imposed.

Collection

**39.** On or before the 25th day of the month next following the month in which an education development charge is collected under section 38, the municipality shall pay to the trea-

Transfer of  
money

suror of the education development charges account all money received in payment of education development charges.

Interest

**40.**—(1) The treasurer of the education development charges account shall pay interest out of the account to persons to whom overpayments are refunded under subsections 31 (3) and (5) and 35 (3) calculated in the manner prescribed.

Period during  
which  
interest is  
payable

(2) Interest shall be calculated from the time that the overpayment was collected to the time that the refund is paid.

Regulations

**41.** The Lieutenant Governor in Council may make regulations that may have general or particular application in respect of a board,

- (a) respecting any matter that is referred to as prescribed by the regulations;
- (b) prescribing forms and providing for their use;
- (c) governing the establishment and administration of the education development charges account;
- (d) providing for the application, placement in a reserve, withdrawal and use of the money deposited or accrued in an education development charges account;
- (e) requiring the approval of the Minister of Education to any factor, criterion, rate, amount, portion, estimate or project used in determining an education development charge;
- (f) prescribing the manner of calculation of education development charges to be used by boards;
- (g) providing for the sharing of proceeds where more than one board establishes a charge in respect of the same area;
- (h) prescribing an indexing formula or formulae for the purposes of subsection 29 (4);
- (i) prescribing information which boards must provide to other boards for the purposes of developing education development charges under this Part;
- (j) prescribing the manner in which interest is to be calculated for the purposes of section 40;



- (k) prescribing the manner in which notice shall be given wherever notice is required under this Part, the persons and agencies to whom notice shall be given, and the form of the notice;
- (l) prescribing the terms of agreements for credit in lieu of payment of education development charges, determining the amount of the credit and governing the allocation of the credit between or among boards.

## PART IV

### GENERAL

**42.**—(1) A by-law providing for the payment of charges related to development that is in effect on the date of the coming into force of this Act shall remain in effect until the earlier of,

Existing  
development  
charges  
by-laws

- (a) the repeal of the by-law;
- (b) the coming into force of a by-law under section 3;
- (c) where the maximum development charge payable under an existing by-law on a dwelling unit is more than \$3,000, one year after the date of the coming into force of this Act; or
- (d) where the maximum development charge payable under an existing by-law on a dwelling unit is \$3,000 or less, two years after the date of the coming into force of this Act.

(2) A by-law referred to in subsection (1) shall not be amended during the period it remains in effect.

No  
amendments  
permitted

**43.**—(1) A municipality shall not enter into an agreement under section 50 or 52 of the *Planning Act, 1983* that imposes a charge related to development after the coming into force of this Act.

Certain  
agreements  
under  
1983, c. 1

(2) An agreement with respect to charges related to development made under section 50 or 52 of the *Planning Act, 1983* that is in effect on the day this Act comes into force remains in effect.

Idem

**44.**—(1) A request made before the coming into force of this Act for a referral under subsection 50 (17) of the *Planning Act, 1983* with respect to a condition relating to a charge

Referrals to  
continue



related to development shall be continued and disposed of under the *Planning Act, 1983*.

Appeals  
under  
1983, c. 1  
continued

(2) An appeal made before the coming into force of this Act under subsection 52 (7) of the *Planning Act, 1983* with respect to a condition relating to a charge related to development shall continue and be disposed of under the *Planning Act, 1983*.

Conflicts

(3) If a decision of the Municipal Board respecting a matter mentioned under subsection (1) or (2) conflicts with a development charge by-law, the decision of the Board prevails to the extent of the conflict.

Agreements  
not affected  
1983, c. 1

**45.** Except as stated herein, this Act does not affect an agreement made under section 50 or 52 of the *Planning Act, 1983*.

No right of  
petition  
R.S.O. 1980,  
c. 347

**46.** Despite section 94 of the *Ontario Municipal Board Act*, there is no right to file a petition under that section in respect of any order or decision of the Municipal Board made in respect of any matter appealed to the Board under this Act.

Conflicts

**47.** In the event of conflict between the provisions of this Act and any other general or special Act, the provisions of this Act prevail.

Commence-  
ment

**48.** This Act comes into force on the day it receives Royal Assent.

Short title

**49.** The short title of this Act is the *Development Charges Act, 1989*.





# Bill 20

## **An Act to provide for the Payment of Development Charges**

The Hon. J. Sweeney  
*Minister of Municipal Affairs*

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<i>1st Reading</i>	May 17th, 1989
<i>2nd Reading</i>	June 26th, 1989
<i>3rd Reading</i>	
<i>Royal Assent</i>	

*(Reprinted as amended by the Finance and Economic Affairs Committee)*



## EXPLANATORY NOTES

The *Planning Act, 1983* currently permits municipalities to impose lot levies on plans of subdivision, and on consents to sever land, to cover some of the costs to municipalities of servicing the resultant growth. The purpose of the Bill is to permit both municipalities and school boards to impose development charges on all types of development that will increase the need for municipal services or school facilities. The Bill also provides authority for agreements between owners and municipalities to allow owners under certain conditions to develop their land earlier than the servicing plans of the municipalities would otherwise permit. Municipalities would then reimburse those owners for their additional costs from development charges subsequently received from other owners of land benefiting from those services.

The principal provisions of the Bill are as follows:

### **PART I — Development charges**

Municipalities may pass by-laws imposing development charges, on types of development specified in the by-law, for the municipal services specified. Development charges could not be imposed on expansions of existing dwelling units, or on the creation of additional units in existing residential buildings, if done in accordance with the regulations. Also, development charges could not be imposed with respect to certain local services which are normally installed by the person developing the land.

A municipality may exempt from development charges categories of dwelling units designated as affordable housing in the by-law and categories of institutions designated in the by-law.

Procedures are established for passing development charge by-laws and for appealing them to the Ontario Municipal Board. The Board could lower or repeal development charges, but not increase them. If an appeal is successful, municipalities would be required to refund the charges already paid.

Development charge by-laws would expire after five years. Municipalities could pass new by-laws before this occurred.

Owners may complain to municipal councils regarding errors in the calculation of development charges and may appeal council decisions to the Ontario Municipal Board.

A development charge must be paid before a building permit is issued, except in specified circumstances. Municipalities may agree to permit owners to provide services in lieu of paying development charges.

Development charges are generally to be collected by lower tier municipalities, although they may be collected by upper tier municipalities as well.

Unpaid development charges are to be added to municipal tax rolls and collected as taxes.

Municipalities may give owners a credit for services installed under existing *Planning Act, 1983* provisions, and under other specified legislation.

Municipalities are to place development charge funds received in separate reserve funds.

Municipalities must pay interest on refunds of development charges.

### **PART II — Front-end payment**

Municipalities may enter into agreements with owners who wish to accelerate development of their lands, and to have those owners install services or pay municipalities for

the installation of services required to accelerate development, to collect from other owners who subsequently benefit from those services, and to reimburse the front-ending owners out of development charges subsequently paid by the other benefiting owners.

Owners are to be given notice of front-ending agreements and to be permitted to appeal them to the Ontario Municipal Board.

Agreements may be registered on land benefiting from them, and municipalities may enforce them against owners and subsequent owners.

Municipalities may enforce agreements against owners of land benefiting from services installed under the agreements.

### **PART III — Education development charges**

School boards may establish by by-law an education development charge to finance all or part of the local share of the costs of new schools or additions to schools required because of growth. The education development charge applies to residential and non-residential development.

Notice provisions and appeal procedures are similar to those contained in Part II.

The Bill also provides for the collection of the education development charge by the municipality. An education development charges account shall be established in respect of the money collected under the charge to be used for an approved capital project.

If two or more school boards, which share an area of jurisdiction, pass a by-law to impose an education development charge upon the same area, the money collected is to be placed in a joint account to be used by the boards as directed by the Minister of Education.

Withdrawals from an education development charges account can only be made for school construction projects which have the approval of the Minister of Education and have been recognized for capital grant purposes.

### **PART IV — General**

Existing by-laws or resolutions providing for development charges are to terminate within a maximum of two years.

No new development charges may be imposed under the *Planning Act, 1983* after a maximum of two years, but existing agreements providing for development charges are to remain in effect.

Existing referrals or appeals under the *Planning Act, 1983* regarding development charges are to be continued and disposed of under the *Planning Act, 1983*.

Agreements under the subdivision and consent provisions of the *Planning Act, 1983* are not to be affected by this Bill, except as those agreements apply to charges related to development.



**Bill 20**

**1989**

## An Act to provide for the Payment of Development Charges

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HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

Definitions

1. In this Act,

“area municipality” means,

- (a) a town, other than a separated town, township or village in a county, and
- (b) a city, town, village or township in a regional, metropolitan or district municipality;

“benefiting area” means an area defined by a map, plan or legal description in a front-ending agreement as an area that will receive a benefit from the construction of a service;

“capital cost” means costs incurred or proposed to be incurred by a municipality or a local board thereof directly or under an agreement,

- (a) to acquire land or an interest in land,
- (b) to improve land,
- (c) to acquire, construct or improve buildings and structures,
- (d) to acquire, construct or improve facilities including,
  - (i) rolling stock, furniture and equipment, and
  - (ii) materials acquired for circulation, reference or information purposes by a library board as defined in the *Public Libraries Act, 1984*, and
- (e) to undertake studies in connection with any of the matters in clauses (a) to (d),

1984, c. 57

required for the provision of services designated in a development charge by-law within or outside the municipality, including interest on borrowing for those expenditures under clauses (a), (b), (c) and (d) that are growth-related;

“development” includes redevelopment;

“development charge” means a charge imposed with respect to growth-related net capital costs against land under a by-law passed under section 3;

“development charge by-law” means a by-law passed under section 3;

“front-end payment” means a payment made by an owner pursuant to a front-ending agreement, which may be in addition to a development charge that the owner is required to pay under a development charge by-law, to cover the net capital costs of the services designated in the agreement that are required to enable the land to be developed;

“front-ending agreement” means an agreement made under section 21;

“growth-related net capital cost” means the portion of the net capital cost of services that is reasonably attributable to the need for such net capital cost that results or will result from development in all or a defined part of the municipality;

“local board” means a local board as defined in the *Municipal Affairs Act*, other than a board defined in subsection 29 (6);

R.S.O. 1980,  
c. 307

“municipality” means a city, town, village, township, improvement district or county or a regional, metropolitan or district municipality;

“Municipal Board” means the Ontario Municipal Board;

“net capital cost” means the capital cost less capital grants, subsidies and other contributions made to a municipality or that the council of the municipality anticipates will be made, including conveyances or payments under sections 41, 50 and 52 of the *Planning Act*, 1983, in respect of the capital cost;

1983, c. 1

“owner” means the owner of land or a person who has made application for an approval for the development of land upon which a development charge is imposed;

“prescribed” means prescribed by regulations made under this Act;

“services” means services designated in a development charge by-law or in an agreement made under section 21, as applicable;

“upper tier municipality” means a county or a regional, metropolitan or district municipality.

Adminis-  
tration

2. The Minister of Municipal Affairs is responsible for the administration of Parts I, II and IV and the Minister of Education is responsible for the administration of Part III.

## PART I

### DEVELOPMENT CHARGES

By-laws  
respecting  
development  
charges

3.—(1) The council of a municipality may pass by-laws for the imposition of development charges against land if the development of the land would increase the need for services and the development requires,

1983, c. 1

- (a) the passing of a zoning by-law or of an amendment thereto under section 34 of the *Planning Act, 1983*;
- (b) the approval of a minor variance under section 44 of the *Planning Act, 1983*;
- (c) A conveyance of land to which a by-law passed under subsection 49 (7) of the *Planning Act, 1983* applies;
- (d) the approval of a plan of subdivision under section 50 of the *Planning Act, 1983*;
- (e) a consent under section 52 of the *Planning Act, 1983*;
- (f) the approval of a description under section 50 of the *Condominium Act*; or
- (g) the issuing of a permit under the *Building Code Act* in relation to a building or structure.

R.S.O. 1980,  
c. 84

R.S.O. 1980,  
c. 51

Exceptions

(2) Subsection (1) does not apply in respect of an action mentioned in clauses (1) (a) to (g) that would have the effect only,

- (a) of permitting the enlargement of an existing dwelling unit; or
- (b) of creating one or two additional dwelling units as prescribed, in prescribed categories of existing residential buildings.

Mandatory  
provisions

(3) A by-law passed under subsection (1) shall,

- (a) designate those uses of land, buildings or structures upon which a development charge shall be imposed;
- (b) designate the areas within which a development charge shall be imposed;
- (c) establish the development charge, or the schedule of development charges, to be imposed in respect of the designated uses of land, buildings or structures; and
- (d) designate services for which a development charge may be imposed.

(4) A by-law passed under subsection (1) may,

Other provisions

- (a) provide for the indexing of development charges based on one of the prescribed indices; and
- (b) provide that a development charge shall be payable in money or by the provision of services or by a combination of both as may be agreed upon under subsection 9 (9) by the municipality and the owner.



➡ (5) Despite subsection (3), a by-law passed under subsection (1) may, Idem

- (a) designate categories of institutions for the purposes of clause (b);
- (b) provide for a full or partial exemption of designated categories of institutions from the payment of development charges;
- (c) designate categories of dwelling units as affordable housing; and
- (d) provide for a full or partial exemption of designated categories of affordable housing from the payment of development charges.

(6) No land, except land owned by and used for the purposes of a board as defined in subsection 29 (6) or a municipality, is exempt from a development charge under a by-law passed under subsection (1) by reason only that it is exempt from taxation under section 3 of the *Assessment Act*.

Limited exemption

➡ R.S.O. 1980, c. 31

(7) No development charge may be imposed with respect to,

Restriction on development charges



1983, c. 1

(a) local services installed at the expense of the owner within a plan of subdivision as a condition of approval under section 50 of the *Planning Act, 1983*;

(b) local services installed at the expense of the owner as a condition of approval under section 52 of the *Planning Act, 1983*; or

R.S.O. 1980,  
c. 302

(c) local connections to water mains, sanitary sewers and storm drainage facilities installed at the expense of the owner including amounts imposed under a by-law passed under section 219 of the *Municipal Act*.

Public  
meeting

4.—(1) Before passing a development charge by-law, except a by-law passed pursuant to an order of the Municipal Board made under clause (11) (b), the council,

(a) shall hold at least one public meeting;

(b) shall give notice of the meeting in the manner and to the persons and organizations prescribed; and

(c) shall ensure that sufficient information is made available at the meeting to enable the public to understand generally the development charges proposal.

Right to be  
heard

(2) The meeting referred to in subsection (1) shall be held no earlier than twenty days after the requirements for the giving of notice have been complied with and any person who attends the meeting may make representations in respect of the proposed development charges.

Notice of  
by-law

(3) If the council passes a development charge by-law, except a by-law passed pursuant to an order of the Municipal Board under clause (11) (b), the clerk of the municipality shall, not later than fifteen days after the day the by-law is passed, give written notice of the passing of the by-law in the form and to the persons and organizations prescribed and the notice shall specify the last day for filing a notice of appeal under subsection (4).

Appeal

(4) Any person or organization may, not later than twenty days after written notice under subsection (3) is given, appeal to the Municipal Board by filing with the clerk of the municipality a notice of appeal setting out the objection to the by-law and the reasons in support of the objection.

(5) For the purposes of subsection (4), the written notice shall be deemed to be given, Timing of notice

- (a) where notice is given by publication in a newspaper, on the day that the publication occurs;
- (b) where notice is given by personal service, on the day that service of all required notices is completed; or
- (c) where notice is given by mail, on the day that the mailing of all required notices is completed.

(6) A clerk of a municipality who receives a notice of appeal shall compile a record which shall include, Record

- (a) a copy of the by-law certified by the clerk;
- (b) an affidavit or declaration certifying that the requirements for the giving of notice under subsection (3) have been complied with; and
- (c) the original or a true copy of all written submissions and material received in respect of the by-law before it was passed.


(7) The clerk shall forward the notice of appeal and the record to the secretary of the Municipal Board within thirty days of the last day of appeal and shall provide such other information or material as the Board may require in respect of the appeal. Notice and record to O.M.B.

(8) An affidavit or declaration of the clerk of the municipality that notice was given as required by subsection (3) or that no notice of appeal was filed under subsection (4) within the time allowed for appeal is conclusive evidence of the facts stated therein. Affidavit, declaration conclusive evidence

(9) The Municipal Board shall hold a hearing notice of which shall be given to such persons or organizations and in such manner as the Board may determine. Hearing


(10) The Municipal Board may, where it is of the opinion that the objection to the by-law set out in the notice of appeal is insufficient, dismiss the appeal without holding a full hearing but before dismissing the appeal shall notify the appellant and give the appellant an opportunity to make representations as to the merits of the appeal. Early dismissal of appeal

➡  
(11) The Municipal Board may, Determination by O.M.B.

- (a) dismiss the appeal;
- (b) order the council of the municipality to repeal the by-law in whole or in part or to amend the by-law in accordance with the Board's order; or
- (c) repeal the by-law in whole or in part or amend the by-law in such manner as the Board may determine. 

Restrictions  
on  
amendments

(12) Despite subsection (11), the Municipal Board may not amend or order the amendment of a by-law so as to,

- (a) increase a development charge imposed by the by-law; or
- (b) alter the term of the by-law. 

Date by-law  
effective

5.—(1) A development charge by-law comes into force on the date it is passed or the date specified in the by-law, whichever is later.

Retroactive  
repeal

(2) If the Municipal Board orders the council of a municipality to repeal a by-law in whole or in part, that part of the by-law that is repealed shall be deemed to have been repealed on the day the by-law came into force.

Refund

(3) The municipality shall refund all development charges paid under the by-law or that part of the by-law that is repealed under subsection 4 (11),

- (a) if repealed by the Municipal Board, within thirty days of the date of the order of the Board; or
- (b) if repealed by the council of the municipality, within thirty days of the date of repeal.

Retroactive  
amendments

(4) If the Municipal Board orders the council of a municipality to amend a by-law, the amendment shall be deemed to have come into force on the day the by-law came into force.

Refunds

(5) The municipality shall refund the difference between the development charges paid under that part of the by-law that is amended under subsection 4 (11) and the development charges required to be paid under the amendment,

- (a) if the by-law is amended by the Municipal Board, within thirty days of the date of the order of the Board; or



(b) if the by-law is amended by the council of the municipality, within thirty days of the date of the amendment.

(6) A repeal or amendment made under subsection 4 (11) is not subject to appeal under subsection 4 (4). Restrictions on appeal

(7) A municipality shall give notice of the particulars of a development charge by-law that is in force in the manner and to the persons prescribed. Notice of by-law

6.—(1) A development charge by-law expires five years after the date it comes into force. Expiration of by-law

(2) Despite subsection (1), the council of a municipality may, Idem

(a) provide in the by-law for a term of less than five years; or

(b) repeal the by-law.

(3) Amendments to a by-law by council under subsection 4 (11) or 7 (1) do not affect the term of the by-law. Term of by-law

(4) Subject to subsections (5), (6) and (7), the council of a municipality in which a development charge by-law is in force may pass a new development charge by-law. New by-law

(5) Before passing a new development charge by-law, the council shall conduct a review of the development charge policies of the municipality. Review of policies

(6) In conducting a review under subsection (5), council shall ensure that adequate information is made available to the public, and for this purpose shall hold at least one public meeting, notice of which shall be given in at least one newspaper having general circulation in the municipality. Public meeting

(7) Sections 4 and 5 apply with necessary modifications to the passing of a by-law under subsection (4). Procedures

7.—(1) The council of a municipality that has passed a development charge by-law may amend the by-law. Amendments

(2) Sections 4 and 5 apply with necessary modifications to an amendment of a development charge by-law under subsection (1). Procedures



## Complaints

8.—(1) An owner may complain in writing to the council of a municipality in respect of the development charge imposed by the municipality on the owner's development that,

- (a) the amount of the development charge imposed was incorrect or was based on incorrect data;
- (b) the amount credited to the owner under section 13 is incorrect;
- (c) the amount of a previous development charge being credited under section 14 is incorrect; or
- (d) there was an error in the application of the development charge by-law.

When  
complaint to  
be made

(2) An owner may not submit a complaint under subsection (1) after ninety days following the latest of,

- (a) the date a building permit is issued;
- (b) the date a development charge is payable under subsection 9 (3); or
- (c) the date a development charge is payable under an agreement under subsection 9 (4) or (8).

## Idem

(3) The complaint shall state the name and address where notices can be given to the complainant and shall state the reasons for the complaint.

## Hearing

(4) The council shall give the complainant the opportunity to make representations and notice of the hearing shall be mailed to the complainant by the clerk not less than fourteen days before the date the complaint is to be considered.

Determi-  
nation by  
council

(5) After hearing the evidence and submissions of the complainant, the council may,

- (a) confirm the development charge; or
- (b) amend the development charge to the extent that, in the opinion of the council, a review of any or all of the matters in subsection (1) justifies such an amendment.

Notice of  
decision

(6) The clerk of the municipality shall, not later than fifteen days after the day a decision is made by the council, give written notice of the decision by mail to the complainant, and the

notice shall specify the last day for filing an appeal, which date shall be no earlier than twenty days after the date the letter is mailed.

(7) The complainant may appeal the decision of the council to the Municipal Board by filing with the clerk of the municipality a notice of appeal setting out the reasons for the appeal. Appeal

(8) The clerk of the municipality who receives a notice of appeal under subsection (7) shall compile a record which shall include, Record

(a) a copy of the development charge by-law certified by the clerk;

(b) an affidavit or declaration certifying that the requirements for the giving of notice have been complied with; and

(c) the original or a true copy of all written submissions and material in support of the complaint.

(9) The clerk shall forward the notice of appeal and the record to the secretary of the Municipal Board within thirty days of the last day of appeal and shall provide such other information and material that the Board may require in respect of the appeal. Notice and record to O.M.B.

(10) The parties to the appeal are the complainant and the municipality. Parties

(11) The Municipal Board shall hold a hearing notice of which shall be given to the parties to the appeal. Notice of hearing

(12) Despite subsection (11), the Municipal Board may, where it is of the opinion that the complaint set out in the notice of appeal is insufficient, dismiss the appeal without holding a full hearing but before dismissing the appeal shall notify the appellant and give the appellant an opportunity to make representations as to the merits of the appeal. Early dismissal

(13) The Municipal Board may make any decision that could have been made by the council of the municipality. Decision by O.M.B.

(14) If the development charge is amended by the council or by the Municipal Board, the municipality shall immediately refund the difference between the development charge paid that was in dispute and the amount of the charge required by the council or the Municipal Board to be paid. Refund

When charge  
is due

9.—(1) A development charge is payable on the date a building permit is issued in relation to a building or structure on land to which a development charge applies.

Effect of  
non-payment

(2) Despite any other Act, a municipality is not required to issue a building permit in relation to a building or structure on land to which a development charge applies unless the development charge has been paid.

Exception

(3) Despite subsection (1), a municipality may, in a development charge by-law, provide that a development charge with respect to water supply services, sanitary sewer services, storm drainage services, transportation services and electrical power or energy services shall be payable, with respect to an approval of a plan of subdivision under section 50 of the *Planning Act, 1983*, immediately upon entering into the subdivision agreement.

1983, c. 1

Agreement  
respecting  
payments

(4) A municipality may enter into an agreement with an owner providing for the payment of a development charge before the date otherwise required for payment under subsection (1) or (3).

Idem

(5) Despite any provision of a development charge by-law, an owner entering into an agreement under subsection (4) is required to pay only the development charge in effect on the date it is payable under the agreement.

Payments  
non-trans-  
ferable

(6) The payments agreed to under subsection (4) are payable by the owner entering into the agreement and are not transferable to a subsequent owner.

Credits non-  
transferable

(7) Credits given under section 13 or 14 to an owner who has entered into an agreement under subsection (4) are not transferable to a subsequent owner.

Exceptions in  
agreements

(8) Despite subsections (1) and (3), a municipality may enter into an agreement with an owner providing for the payment of all or any portion of the development charge on dates later than the issuing of a building permit or the entering into of a subdivision agreement.

Services in  
lieu of  
payment

(9) Despite subsections (1) and (3), a municipality may by agreement permit an owner to provide services in lieu of the payment of all or any portion of a development charge.

Interest

(10) A municipality that has entered into an agreement under subsection (8) may charge interest, at a rate stipulated



in the agreement, on that part of the development charge not paid in accordance with subsection (1).

**10.**—(1) If a development charge is imposed by an upper tier municipality, the treasurer of the upper tier municipality shall certify to the treasurer of the area municipality in which the land is located that the charge has been imposed, the amount of the charge, the manner in which the charge is to be paid and when the charge is due.

Upper tier municipalities

(2) The treasurer of the area municipality shall collect the charge imposed by the upper tier municipality when due and shall, unless an extension of time is agreed to by the upper tier municipality, remit the amount of the charge to the treasurer of the upper tier municipality on or before the 25th day of the month following the month in which the charge is received by the area municipality.

Collection of development charges

(3) Despite subsection (2), a development charge imposed by an upper tier municipality under subsection 9 (3), (4) or (8) may be collected by the upper tier municipality.

Idem

(4) The treasurer of an upper tier municipality that has collected a development charge under subsection (3) shall certify to the treasurer of the area municipality in which the land is located that the charge has been collected.

Certification

(5) If building permits are issued by an upper tier municipality, the chief building official of the upper tier municipality shall certify to the treasurer of the area municipality in which the land is located that all applicable law within the meaning of the *Building Code Act*, except the payment of development charges, has been complied with.

Idem

R.S.O. 1980,  
c. 51

(6) The treasurer of the area municipality shall, upon receipt of the certificate under subsection (5) and upon payment of all development charges and education development charges under Part III imposed on the development, immediately certify to the chief building official of the upper tier municipality that all development charges and education development charges have been paid.

Idem

(7) If building permits are issued by an upper tier municipality, the upper tier municipality may, if agreed to by the area municipality, collect all development charges and education development charges.

Delegation of collection powers

**11.** A municipality that has passed a development charge by-law may register the by-law or a certified copy of it on the land to which it applies.

Notice of by-law



## Collection

**12.**—(1) If the development charge or any part thereof imposed by a municipality, other than an upper tier municipality, remains unpaid after the due date, the amount unpaid shall be added to the tax roll and shall be collected as taxes.

## Idem

(2) If the development charge or any part thereof imposed by an upper tier municipality remains unpaid after the due date, the treasurer of the upper tier municipality shall certify to the treasurer of the area municipality in which the land is located that the amount is unpaid and the amount unpaid shall be added to the tax roll of the area municipality and shall be collected as taxes.

## Credit for services

**13.**—(1) A municipality that permits the provision of services in lieu of the payment of all or any portion of a development charge shall give a credit for an amount equal to the reasonable cost to the owner of providing the services.

## Idem

(2) If a municipality and owner enter an agreement that permits an owner to provide services additional to or of a greater size or capacity than is required under a development charge by-law, the municipality may agree to give a credit for an amount up to the reasonable cost to the owner of providing the services.

## Idem

(3) A credit given under subsection (2) shall not be charged to a reserve fund established under section 16.

## Credits

**14.**—(1) If an owner or a former owner has, before the coming into force of a development charge by-law, paid all or any portion of a charge related to development pursuant to an agreement under section 50 or 52 of the *Planning Act, 1983* or a predecessor thereof with respect to land within the area to which the by-law applies, the municipality shall give a credit for the amount of the charge paid.

1983, c. 1

## Idem

(2) If an owner or a former owner has, before the coming into force of a development charge by-law, provided services in lieu of the payment of all or any portion of a charge related to development pursuant to an agreement under section 50 or 52 of the *Planning Act, 1983* or a predecessor thereof with respect to land within the area to which the by-law applies, the municipality shall give a credit for an amount equal to the reasonable cost to the owner or to the former owner of providing the services.

## Idem

R.S.O. 1980,  
c. 302;  
1960-61,  
c. 120;  
1961-62,  
c. 171

(3) If an owner is required to pay a charge to a municipality under a by-law passed under section 215 of the *Municipal Act*, section 4 of *The City of Ottawa Act, 1960-61* or section 1 of *The City of Toronto Act, 1961-62*, the municipality shall

reduce the development charge payable under the development charge by-law by an amount equal to the charge imposed by that by-law.

(4) If a conflict exists between the provisions of a development charge by-law and an agreement referred to in subsection (1) or (2), the provisions of the agreement prevail to the extent of the conflict. Conflicts

(5) If a conflict exists between the provisions of a development charge by-law and any other agreement between a municipality and an owner or a former owner with respect to land within the area to which the by-law applies, the provisions of the agreement prevail to the extent that there is a conflict. Idem

15.—(1) A municipality shall not levy more than one development charge on land to which a development charge applies even though two or more of the actions described in clauses 3 (1) (a) to (g) are required before that land can be developed. Multiple requirements

(2) Despite subsection (1), if two or more of the actions described in clauses 3 (1) (a) to (g) occur at different times, a municipality may require the payment of an additional development charge if the subsequent action has the effect of increasing the need for services. Idem

16.—(1) Payments received by a municipality under this Part shall be maintained in a separate reserve fund or funds and shall be used only to meet growth-related net capital costs for which the development charge was imposed. Reserve fund

(2) Subsections 165 (2) and (3) of the *Municipal Act* apply with necessary modifications to payments received by a municipality under this Part. R.S.O. 1980, c. 302, s. 165 applies

17. The treasurer of the municipality shall, in each year, on or before such date as council may direct, furnish to the council a statement in respect of each reserve fund established under section 16 containing the information prescribed. Statement of treasurer

18.—(1) A municipality shall pay interest to persons to whom overpayments are refunded under subsection 5 (3), 5 (5) or 8 (14) calculated in the manner prescribed. Interest

(2) Interest shall be calculated from the time that the overpayment was collected to the time that the refund is paid. Idem

(3) The refund shall include the interest owed. Idem

## Regulations


**19.** The Lieutenant Governor in Council may make regulations,

- (a) prescribing, for the purposes of section 3, the manner in which development charges shall be calculated;
- (b) prescribing the number of additional dwelling units and the categories of existing residential buildings for the purposes of clause 3 (2) (b);
- (c) prescribing, for the purposes of section 3, those services for which development charges shall not be imposed;
- (d) prescribing, for the purposes of clause 3 (4) (a), an index or indices that may be used;
- (e) prescribing, for the purposes of subsection 4 (1), the persons that are to be given notice and the manner in which notice is to be given;
- (f) prescribing, for the purposes of subsection 4 (3), the persons and agencies that are to be given notice and the manner and form in which notice is to be given;
- (g) prescribing, for the purposes of subsection 5 (7), the information to be provided in the notice and the persons to whom notice is to be given;
- (h) prescribing, for the purposes of section 13, the manner in which credits shall be calculated;
- (i) prescribing the information to be provided in a statement of the treasurer under section 17;
- (j) prescribing methods of calculating and establishing interest rates under section 18;
- (k) prescribing anything that in Parts I, II and IV of this Act may be prescribed by regulation.

## PART II

### FRONT-END PAYMENTS

## Definition

 **20.** In this Part, “benefiting owner” means an owner of land within a benefiting area other than an owner who is party to a front-ending agreement.



**21.**—(1) A municipality that has passed a development charge by-law may enter into a front-ending agreement or agreements with any or all owners within a benefiting area providing for the payment by those owners of a front-end payment or for the installation of services by the owners, or any combination thereof.

Front-ending  
agreement

(2) A front-ending agreement shall contain,

Contents of  
agreement

- (a) a list of the services for which front-end payments shall be made or services installed by the owner;
- (b) the estimated cost of installing the services;
- (c) the proportion of the front-end payment or the cost of the installation of services to be paid by each owner who is a party to the agreement;
- (d) the agreement of the owners to immediately pay to the municipality the actual costs incurred by the municipality in the installation of the services in accordance with the proportions determined under clause (c);
- (e) the agreement of the municipality to immediately reimburse the owners if the actual cost incurred by the municipality in the installation of the services is lower than the estimated cost in accordance with the proportions determined under clause (c);
- (f) a description of the benefiting area for each of the services;
- (g) a list of the services in the agreement for which a development charge is payable;
- (h) a list of the services in the agreement which are services described in subsection 3 (7);
- (i) a description of the manner in which the portion of the payment to be made by each benefiting owner with respect to the services listed in clause (g) is to be calculated;
- (j) if the agreement provides for the installation of services by the owners who are parties to the agreement, the agreement of the municipality to use the reasonable cost to the owners of installing the services in making the calculations under clause (i);



- (k) the agreement of the municipality to require each benefiting owner to pay, with respect to the services listed in clause (g), that benefiting owner's portion of the front-end payment; and
- (l) the period of time during which the agreement is in force.

Idem


(3) A front-ending agreement may provide that the reasonable costs to the municipality of administering the agreement, including the cost of consultants and studies required in preparation of the agreement, are to be included in calculating the front-end payment.

Idem

(4) A front-ending agreement may provide for the indexing of the payments required to be made by the benefiting owner under clause (2) (k).

Front-ending agreement

**22.**—(1) The municipality shall give notice of the front-ending agreement,

- (a) by mailing it to all owners within the benefiting area; or
- (b) by publishing it in a newspaper having general circulation in the municipality. 

Contents of notice

(2) The notice referred to in subsection (1) shall explain the nature and purpose of the agreement and shall indicate that the agreement can be viewed in the office of the clerk during normal office hours.


Objections

(3) Any owner to whom notice of the agreement is given, except a party to the agreement, may object to the agreement by filing a written objection with the clerk of the municipality within twenty-one days of the date of the giving of the notice of the agreement.



Notice

(4) For the purposes of subsection (3), notice shall be deemed to be given,

- (a) where notice is given by mail, on the day the mailing of all required notices is completed; or
- (b) where notice is given by publication in a newspaper, on the day that the publication occurs. 

Effective date of agreement

(5) If no objection is filed within twenty-one days, the agreement shall be deemed to have come into effect on the date it was fully executed.

(6) If an objection is filed, the clerk shall immediately forward it to the Municipal Board. Objections to O.M.B.

(7) The Municipal Board shall hold a hearing and shall confirm the agreement, refuse to confirm the agreement or direct a municipality to make changes to the agreement. Hearing to O.M.B.

(8) If an objection is filed under subsection (3), the agreement comes into effect when approved by the Municipal Board or, if changes are directed by the Board, when the municipality and the other parties to the agreement have executed the agreement as directed to be changed by the Board. Effective date where objection

(9) The parties to the Municipal Board hearing are the municipality, the other parties to the agreement and the owners who filed written objections within the period referred to in subsection (3). Parties

(10) The Municipal Board may, where it is of the opinion that the objection to the agreement is insufficient, dismiss the objection without holding a full hearing, but before dismissing the objection it shall notify the objector and give the objector an opportunity to make representations as to the merits of the objection. Early dismissal of objection

**23.** Section 64 of the *Ontario Municipal Board Act* does not apply to a front-ending agreement or to special accounts established under sections 27 and 28. O.M.B. approval not required  
R.S.O. 1980, c. 347


**24.** An agreement entered into under section 21 may be registered against the land in the benefiting area, and subject to the *Registry Act* and the *Land Titles Act*, the municipality, Registration  
  
R.S.O. 1980, cc. 445, 230

(a) may enforce the provisions of the agreement against any and all subsequent owners of the lands owned by the parties thereto; and

(b) may enforce the provisions of the agreement made under clauses 21 (2) (d) and (k), subsection 21 (4) and section 26 against any and all owners and subsequent owners of lands in the benefiting area.

**25.** If a front-ending agreement is in effect, no person shall undertake any development that requires an approval mentioned in subsection 3 (1) within a benefiting area until section 26 has been complied with. Compliance necessary

**26.** A municipality that has entered into a front-ending agreement shall require a benefiting owner to pay the benefiting owner's portion of the front-end payment as a condition of Payments to parties to agreement

an approval granted during the term of the agreement of any development on that portion of the benefiting owner's land located within the benefiting area. 

Special  
accounts


**27.**—(1) The municipality shall place all money received from the parties to the front-ending agreement in a special account and shall use the funds in such account only for,

- (a) paying the actual net cost of the installation of the services specified in the agreement; and
- (b) reimbursing to the parties to the agreement any funds remaining in the account after the installation of the services referred to in clause (a).

Idem

(2) During the term of the agreement the municipality shall provide annually to the parties to the front-ending agreement a statement setting out the particulars of payments made out of the account, the balance remaining in the account and additional payments, if any, that are or will be required from the parties pursuant to the agreement.

Distribution  
of section 26  
funds

 **28.**—(1) The municipality shall place money received under section 26 in a special account and shall, immediately upon receipt of the money, by registered mail,

- (a) notify the parties to the front-ending agreement that the money is available to be paid out; and
- (b) request the parties to give directions to the municipality as to whom the money is to be paid.

Payment to  
party

(2) Upon receipt of a direction from a party to a front-ending agreement, the municipality shall pay to the party named in the direction the proportion of the money received by the municipality to which the party is entitled.

Payment into  
court

(3) If within ninety days of mailing the notice under subsection (1) the municipality has not received a direction from a party, the municipality may pay the money owing to that party into the Supreme Court.

Notification  
of payment

(4) A municipality that has paid money into court under subsection (3) shall immediately notify the party to whom the money is owing, by registered mail sent to the party's last known address, that,

- (a) the money has been paid into court; and



(b) the party must apply to the court for the release of the money.

(5) If the party to whom notice was sent, or an heir, successor or assign thereof, has not applied to the court under clause (4) (b) within twelve months of the mailing of the notice, the municipality may apply to the court for the release of the money to the municipality.

Application  
for release of  
funds

(6) If the court has not received a request for the release of the money before the application of the municipality is received, it shall release the money to the municipality.

Release of  
funds

(7) The municipality may place money released by the court in its general account.

Funds to  
general  
account

(8) The municipality is required to reimburse the parties to the agreement only when the money referred to in subsection (1) is paid and only in accordance with subsections (1) to (4).

Limited  
responsibility

(9) Payments made under subsection (1) with respect to services referred to in clause 21 (2) (g) shall be deducted from the amount otherwise payable by an owner pursuant to a development charge by-law.

Deductions

### PART III

#### EDUCATION DEVELOPMENT CHARGES

**29.—(1)** In this Part,

Definitions

“board” means a board described in paragraph 3 of subsection 1 (1) of the *Education Act*, other than,

R.S.O. 1980,  
c. 129

- (a) a board established under section 70 of the *Education Act*,
- (b) a board of education for an area municipality in The Municipality of Metropolitan Toronto,
- (c) The Metropolitan Toronto French-Language School Council, and
- (d) The Ottawa-Carleton French-language School Board,

but includes the public sector and the Roman Catholic sector of The Ottawa-Carleton French-language School Board and The Metropolitan Toronto School Board;



“commercial development” means a development other than a residential development;

“education capital cost” means costs incurred or proposed to be incurred by a board,

- (a) to acquire school facilities to provide pupil accommodation,
- (b) to construct, expand, alter or improve school facilities to provide pupil accommodation,
- (c) to furnish or equip the school facilities described in clauses (a) and (b), and
- (d) to undertake studies in connection with any of the matters in clauses (a), (b) and (c);

“education development charge” means a development charge imposed under a by-law passed under section 30 respecting growth-related net education capital costs incurred or proposed to be incurred by a board;

“education development charge by-law” means a by-law passed under subsection 30 (1);

“education development charges account” means an account established in accordance with the regulations for money collected under an education development charge by-law;

“growth-related net education capital cost” means the prescribed portion of the net education capital cost reasonably attributable to the need for such net education capital cost that is attributed to or will result from development in all or part of the area of jurisdiction of a board;

“net education capital cost” means the education capital cost reduced by any capital grants and subsidies paid or that may be paid to the board in respect of such education capital cost;

“owner” means the owner of the land or a person who has made application for an approval for the development of the land upon which an education development charge is imposed;

“pupil accommodation” means a building to accommodate pupils or an addition or alteration to a building that enables the building to accommodate an increased number of pupils;

“school facilities” means a school site described in paragraph 53 of subsection 1 (1) of the *Education Act*.

R.S.O. 1980,  
c. 129

Interpretation

(2) In this Part, reference to the area of jurisdiction of a board, in the case of a county combined separate school board or a district combined separate school board, is the area designated by the regulations made under the *Education Act*.

**30.**—(1) If there is residential development in the area of jurisdiction of a board that would increase education capital costs, the board may pass by-laws for the imposition of education development charges against land undergoing residential and commercial development in that area if the residential and commercial development require,

Education  
development  
charge by-law

(a) the passing of a zoning by-law or of an amendment thereto under section 34 of the *Planning Act, 1983*;

1983, c. 1

(b) the approval of a minor variance under section 44 of the *Planning Act, 1983*;

(c) a conveyance of land to which a by-law passed under subsection 49 (7) of the *Planning Act, 1983* applies;

(d) the approval of a plan of subdivision under section 50 of the *Planning Act, 1983*;

(e) a consent under section 52 of the *Planning Act, 1983*;

(f) the approval of a description under section 50 of the *Condominium Act*; or

R.S.O. 1980,  
c. 84

(g) the issuing of a permit under the *Building Code Act* in relation to a building or structure.

R.S.O. 1980,  
c. 51

(2) Subsection (1) does not apply in respect of an action mentioned in clauses (1) (a) to (g) that would have the effect only,

Exceptions

(a) of permitting the enlargement of an existing dwelling unit; or

(b) of creating one or two additional dwelling units as prescribed, in prescribed categories of existing residential buildings.

(3) A by-law passed under subsection (1) shall,

Contents of  
by-law

- (a) designate the categories of residential development and commercial development upon which an education development charge shall be imposed;
- (b) designate those uses of land, buildings or structures upon which an education development charge shall be imposed;
- (c) designate the areas in which an education development charge shall be imposed; and
- ➡ (d) subject to the regulations, establish the education development charges to be imposed in respect of the designated categories of development and the designated uses of land, buildings or structures. ⬆

## Indexing

(4) A by-law passed under subsection (1) may provide for the indexing of education development charges based on one of the prescribed indices.

## Limited exemption

➡ (5) No land, except land owned by and used for the purposes of a board or a municipality, is exempt from an education development charge under a by-law passed under subsection (1) by reason only that it is exempt from taxation under section 3 of the *Assessment Act*. ⬆

R.S.O. 1980,  
c. 31

## Interpretation

(6) In subsection (5), "board" has the same meaning as in section 29 except that it includes the boards described in clauses (a) to (d) of that definition. ⬆

## Conditions

(7) The imposition of an education development charge by a board is subject to the prescribed conditions.

## Public meeting

**31.**—(1) Before passing an education development charge by-law, except a by-law passed pursuant to an order of the Municipal Board made under clause (11) (b), the board,

- (a) shall hold at least one public meeting;
- (b) shall give notice of the meeting in the manner and to the persons and organizations prescribed; and
- (c) shall ensure that sufficient information is made available to enable the public to understand generally the education development charge proposal.

## Right to be heard

(2) The meeting referred to in subsection (1) shall be held no earlier than twenty days after the requirements for the giving of notice have been complied with and any person who



attends the meeting may make representations in respect of the proposed education development charges.

(3) If the board passes an education development charge by-law, other than a by-law passed pursuant to an order of the Municipal Board under clause (11) (b), the secretary of the board shall, not later than fifteen days after the day the by-law is passed, give written notice of the passing of the by-law in the manner and in the form and to the persons and organizations prescribed and the notice shall specify the last day for filing a notice of appeal under subsection (4). Notice of  
by-law

(4) Any person or organization may, not later than twenty days after written notice under subsection (3) is given, appeal to the Municipal Board by filing with the secretary of the board a notice of appeal setting out the objection to the by-law and the reasons in support of the objection. Appeal

(5) For the purposes of subsection (4), written notice shall be deemed to be given, Timing of  
notice

- (a) where notice is given by publication in a newspaper, on the day that the publication occurs;
- (b) where notice is given by mail, on the day that the mailing of all required notices is completed; or
- (c) where notice is given by publication and by mail, on the later of the days that publication occurs or mailing is completed.

(6) The secretary of the board who receives a notice of appeal shall compile a record which shall include, Record

- (a) a copy of the by-law certified by the secretary;
- (b) an affidavit or declaration certifying that the requirements for the giving of notice under subsection (3) have been complied with; and
- (c) the original or a true copy of all written submissions and material received in respect of the by-law before it was passed.

(7) The secretary of the board shall forward the notice of appeal and the record to the secretary of the Municipal Board within thirty days of the last day of appeal and shall provide such other information or material as the Municipal Board may require in respect of the appeal. Notice and  
record to  
O.M.B.



Affidavit,  
declaration  
conclusive  
evidence

(8) An affidavit or declaration of the secretary of the board that notice was given as required by subsection (3) or that no notice of appeal was filed under subsection (4) within the time allowed for appeal is conclusive evidence of the facts stated therein.

Hearing

(9) The Municipal Board shall hold a hearing notice of which shall be given to such persons or organizations and in such manner as the Municipal Board may determine.

Early  
dismissal of  
appeal

(10) The Municipal Board may, where it is of the opinion that the objection to the by-law set out in the notice of appeal is insufficient, dismiss the appeal without holding a full hearing but before dismissing the appeal shall notify the appellant and give the appellant the opportunity to make representations as to the merits of the appeal.

Determi-  
nation by  
O.M.B.

(11) The Municipal Board may,

- (a) dismiss the appeal;
- (b) order the board to repeal the by-law in whole or in part or to amend the by-law in accordance with the Municipal Board's order; or
- (c) repeal the by-law in whole or in part or amend the by-law in such manner as the Municipal Board may determine.

Restriction  
on  
amendments

(12) Despite subsection (11), the Municipal Board may not amend or order the amendment of a by-law so as to,

- (a) increase an education development charge imposed by the by-law; or
- (b) alter the term of the by-law.

When by-law  
effective

**32.**—(1) An education development charge by-law comes into force on the fifth day following the day it is passed or the day specified in the by-law, whichever is later.

Retroactive  
repeal


(2) If the Municipal Board orders a board to repeal a by-law in whole or in part, that part of the by-law that is repealed shall be deemed to have been repealed on the day the by-law came into force.

Refund

(3) The treasurer of the education development charges account shall refund all education development charges paid under the by-law or that part of the by-law that is repealed under subsection 31 (11),

(a) if repealed by the Municipal Board, within thirty days of the date of the order of the Municipal Board; or

(b) if repealed by the board, within thirty days of the date of repeal. 


 (4) If the Municipal Board orders a board to amend a by-law in whole or in part, that part of the by-law that is amended ceases to be in force and the amendment shall be deemed to have come into force on the date the by-law came into force.

Retroactive amendments

(5) The treasurer of the education development charges account shall refund the difference between the education development charges paid under that part of the by-law that is amended under subsection 31 (11) and the education development charges required to be paid under the amendment,

Refunds

(a) if the by-law is amended by the Municipal Board, within thirty days of the date of the order of the Municipal Board; or

(b) if the by-law is amended by the board, within thirty days of the date of the amendment. 

(6) A repeal or amendment made under subsection 31 (11) is not subject to appeal under subsection 31 (4).

Restrictions on appeal

(7) A refund under this section shall be paid to the owner and the treasurer of the education development charges account shall inform the municipal treasurer of the amount of the refund.

Direct refund

**33.**—(1) An education development charge by-law expires five years after the date it comes into force.

Expiration of by-law

(2) Despite subsection (1), a board may,

Idem

(a) provide in the by-law for a term of less than five years; or

(b) repeal the by-law.

(3) Despite subsection (1), if an education development charge by-law is in force in respect of an area, the term of an education development charge by-law passed by another board with respect to the same area shall expire on the date of expiration of the first-mentioned by-law.

Concurrent terms

Change of  
term

(4) Where a board repeals its education development charge by-law and another board that has jurisdiction in all or part of the same area has passed a by-law that under subsection (3) would expire on the date of expiration of the first-mentioned by-law, that other board may determine that the by-law shall be in effect for up to five years after the date it comes into force and, where it does so, the board shall give notice of its determination to the same persons and in the same manner as provided under subsection 37 (1).

New  
education  
development  
charge by-law

(5) Subject to subsections (6), (7) and (8), a board that has passed an education development charge by-law that is in force may pass a new education development charge by-law.

Review of  
policies

(6) Before passing a new education development charge by-law, the board shall conduct a review of the education development charge policies of the board.

Public  
meeting

(7) In conducting a review under subsection (6), the board shall ensure that adequate information is made available to the public, and for this purpose shall hold at least one public meeting, notice of which shall be given in at least one newspaper having general circulation in the area of jurisdiction of the board.

Idem

(8) Sections 31 and 37 apply with necessary modifications to a by-law under subsection (5).

Amendment

34.—(1) A school board may amend an education development charge by-law and the amendment shall come into force on the fifth day following the date the amendment is passed and the part of the by-law that is amended ceases to be in force on that day.

Idem

(2) Sections 31 and 37 apply with necessary modifications to an amendment made under this section.

Payment of  
charge

35.—(1) An education development charge is payable,

- (a) to the municipality in which the development takes place on the date a building permit is issued in relation to a building or structure on land to which an education development charge applies; or
- (b) if the development takes place in territory without municipal organization, to the board that imposed the education development charge thirty days after the board mails a notice to the owner setting out the amount of the charge.



(2) An education development charge imposed by a board in respect of commercial development is the amount determined in the manner prescribed or calculated using the formula prescribed.

Commercial  
development

(3) Despite any other Act, a municipality is not required to issue a building permit in relation to a building or structure on land to which an education development charge by-law applies unless the education development charge has been paid.

Charge to be  
paid before  
building  
permit issued

(4) Despite subsection (1), and subject to subsection (5) and the consent of the Minister of Education, a board may by agreement permit an owner to provide school facilities in lieu of the payment of all or any portion of an education development charge and the board,

Facilities in  
lieu of  
payment

(a) shall advise the treasurer of the municipality in which the land is situate of the amount of the credit that shall be applied against the education development charge; or


(b) if the land is located in territory without municipal organization, shall provide a credit to the owner against the educational development charge.

(5) If more than one board has jurisdiction in an area and one or more boards are to receive school facilities under subsection (4), all of the boards that have imposed an education development charge in that area are required to be parties to the agreement.


Necessary  
parties

**36.**—(1) An owner or board may complain in writing to the council of the municipality in which the land is situate or, where the land is situate in territory without municipal organization, an owner may complain to the board that, in respect of the education development charge of that owner,

Complaints

(a) the amount of the education development charge imposed was incorrect or based on incorrect data; 

(b) there was an error in the application of the education development charge by-law; or


(c) the amount credited to an owner under subsection 35 (4) is incorrect. 

(2) An owner or board may not submit a complaint under subsection (1) after ninety days following the later of,

When  
complaint to  
be made



(a) the date a building permit is issued, or if development takes place in territory without municipal organization, the date that the education development charge is payable under clause 35 (1) (b); or

(b) the date an agreement is entered into under subsection 35 (4). 

Procedures  
adopted

(3) Subsections 8 (3) to (14) apply with necessary modifications to a complaint under subsection (1).


Refunds

(4) If a final determination of a complaint has been made and a refund is due to the owner, the treasurer of the education development charges account shall pay the amount of the refund to the treasurer of the municipality who shall reimburse the owner.

Idem

(5) If a final determination of a complaint has been made and a refund is due to the school board, the treasurer of the municipality shall pay the amount of the refund to the treasurer of the education development charges account.

Underpayments


(6) If a final determination of a complaint has been made and the owner is required to pay an additional amount, the treasurer of the municipality or, in respect of territory without municipal organization, the treasurer of the board, shall collect the additional amount due from the owner and shall remit the amount to the treasurer of the education development charges account. 

Distribution  
of by-law

**37.**—(1) A board that passes a by-law under subsection 30 (1) shall submit to the treasurer of each municipality all or part of which is made subject to an education development charge a copy of the by-law and provide a copy to the secretary of any other board that has jurisdiction in the same or part of the same area of the board that passed the by-law and forward a copy to the Minister of Education.

Special  
accounts

R.S.C. 1985,  
c. B-1  
1987, c. 33

(2) Educational development charges accounts shall be established in accordance with the regulations and deposited with a chartered bank listed in Schedule A to the *Bank Act* (Canada) or a trust corporation registered under the *Loan and Trust Corporations Act, 1987*. 

Territory  
without  
municipal  
organization

(3) Where the area of jurisdiction of a board includes territory without municipal organization, all or part of which is made subject to an education development charge, the board shall exercise the powers and duties of a municipal council for such territory in respect of collecting the charge and the offic-

ers of the board have the same powers and duties as similar officers in a municipality.

(4) Where an education development charge is imposed by a board, the treasurer of the municipality or board, as the case requires, shall collect the charge imposed when due and, on or before the 25th day of the month next following the month in which the charge is collected, shall deposit the amount of the charge in the education development charges account established in respect of the by-law under which the charge is imposed.

Collection of charge

(5) On or before the fifth day of the month following a month in which a deposit is made under subsection (4), the treasurer of the municipality shall forward to the treasurer of the board or the treasurer of the board shall prepare a statement setting out the prescribed information in respect of the period that began on the 26th day of the month before the preceding month and that ended on the 25th day of the preceding month.

Statement

(6) If two or more boards have imposed an education development charge by-law upon an area, the statement mentioned in subsection (5) shall be prepared in respect of the money collected and forwarded to the treasurer of each board that passed a by-law under which the money was collected.

Idem

**38.** A board that has passed an education development charge by-law may register the by-law or a certified copy of it on the land to which it applies.

Registration of notice

**39.** If an education development charge or any part thereof remains unpaid after the due date, the amount unpaid shall be added to the tax roll of the municipality or board, as the case requires and shall be collected as taxes and remitted to the treasurer of the education development charges account established in respect of the by-law under which the education development charge is imposed.

Collection

**40.** On or before the 25th day of the month next following the month in which an education development charge is collected under section 39, the municipality shall pay to the treasurer of the education development charges account all money received in payment of education development charges.

Transfer of money

**41.** If an upper tier municipality issues building permits, subsections 32 (7), 35 (1) and (4) and sections 36, 37 and 40 apply to the upper tier municipality and not to the area municipality.

Upper tier municipalities

Interest

**42.**—(1) The treasurer of the education development charges account shall pay interest out of the account to persons to whom overpayments are refunded under subsections 32 (3) and (5) and 36 (4) calculated in the manner prescribed.

Period during  
which  
interest is  
payable

(2) Interest shall be calculated from the time that the overpayment was collected to the time that the refund is paid.

Payment of  
interest

(3) The refund shall include the interest owed.

Regulations

**43.** The Lieutenant Governor in Council may make regulations that may have general or particular application in respect of a board,

(a) respecting any matter that is referred to as prescribed by the regulations;

(b) prescribing forms and providing for their use;

(c) governing the establishment and administration of the education development charges account;

(d) providing for the application, placement in a reserve, withdrawal and use of the money deposited in or accredited to an education development charges account and requiring the approval of the Minister in respect of the manner in which or the rate at which the money is withdrawn;

(e) prescribing the powers of the treasurer of the education development charges account in relation to the withdrawal of funds;



(f) requiring the approval of the Minister of Education to any factor, criterion, rate, amount, portion, estimate or project used in determining an education development charge;

(g) prescribing the manner of calculating or determining education development charges and prescribing classes of persons that may make determinations necessary for the calculation of education development charges;

(h) providing for the sharing of proceeds where more than one board establishes a charge in respect of the same area;


(i) prescribing, for the purposes of subsection 30 (4), an index or indices that may be used;





- (j) prescribing information which boards must provide to other boards and to the Minister for the purposes of developing education development charges under this Part;
- (k) prescribing methods of calculating and establishing interest rates under section 42; 
- (l) prescribing the manner in which notice shall be given wherever notice is required under this Part, the persons and agencies to whom notice shall be given, and the form of the notice;
- (m) prescribing the terms of agreements for credit in lieu of payment of education development charges, determining the amount of the credit and governing the allocation of the credit between or among boards;
- (n) requiring a board to exempt an owner from an educational development charge if the owner meets the prescribed conditions. 

## PART IV

### GENERAL

 **44.**—(1) A by-law or resolution providing for the payment of charges related to development that is in effect on the date of the coming into force of this Act shall remain in effect until the earliest of, Existing development charges by-law

- (a) the repeal of the by-law or resolution;
- (b) the coming into force of a by-law under section 3; or
- (c) two years after the date of the coming into force of this Act. 

 (2) A by-law or resolution referred to in subsection (1) shall not be amended during the period it remains in effect. No amendments permitted

(3) Subsection (1) does not apply with respect to a by-law referred to in subsection 14 (3) or to a by-law passed under section 41 of the *Planning Act*, 1983. Exceptions


**45.**—(1) A municipality shall not enter into an agreement under section 50 or 52 of the *Planning Act*, 1983 that imposes Certain agreements under 1983, c. 1



a charge related to a development, except a charge referred to in subsection 3 (7), after the earlier of,

- (a) the coming into force of a by-law under section 3; or
- (b) two years after the date of the coming into force of this Act.

Idem

(2) An agreement with respect to charges related to development made under section 50 or 52 of the *Planning Act, 1983* that is in effect on the earlier of the dates referred to in clauses (1) (a) and (b) remains in effect. 

Referrals to  
continue

**46.**—(1) A request made before the coming into force of this Act for a referral under subsection 50 (17) of the *Planning Act, 1983* with respect to a condition relating to a charge related to development shall be continued and disposed of under the *Planning Act, 1983*.

Appeals  
under  
1983, c. 1  
continued

(2) An appeal made before the coming into force of this Act under subsection 52 (7) of the *Planning Act, 1983* with respect to a condition relating to a charge related to development shall continue and be disposed of under the *Planning Act, 1983*.

Conflicts

(3) If a decision of the Municipal Board respecting a matter mentioned under subsection (1) or (2) conflicts with a development charge by-law, the decision of the Board prevails to the extent of the conflict.

Agreements  
not affected  
1983, c. 1

**47.** Except as stated herein, this Act does not affect an agreement made under section 50 or 52 of the *Planning Act, 1983*.

No right of  
petition  
R.S.O. 1980,  
c. 347

**48.** Despite section 94 of the *Ontario Municipal Board Act*, there is no right to file a petition under that section in respect of any order or decision of the Municipal Board made in respect of any matter appealed to the Board under this Act.

Conflicts

**49.** In the event of conflict between the provisions of this Act and any other general or special Act, the provisions of this Act prevail.

Commence-  
ment

**50.** This Act comes into force on the day it receives Royal Assent.

Short title

**51.** The short title of this Act is the *Development Charges Act, 1989*.





# Bill 20

*(Chapter 58  
Statutes of Ontario, 1989)*

## **An Act to provide for the Payment of Development Charges**

The Hon. J. Sweeney  
*Minister of Municipal Affairs*

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<i>1st Reading</i>	May 17th, 1989
<i>2nd Reading</i>	June 26th, 1989
<i>3rd Reading</i>	November 22nd, 1989
<i>Royal Assent</i>	November 23rd, 1989

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Bill 20

1989

## An Act to provide for the Payment of Development Charges

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HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

Definitions

**1.** In this Act,

“area municipality” means,

- (a) a town, other than a separated town, township or village in a county, and
- (b) a city, town, village or township in a regional, metropolitan or district municipality;

“benefiting area” means an area defined by a map, plan or legal description in a front-ending agreement as an area that will receive a benefit from the construction of a service;

“capital cost” means costs incurred or proposed to be incurred by a municipality or a local board thereof directly or under an agreement,

- (a) to acquire land or an interest in land,
- (b) to improve land,
- (c) to acquire, construct or improve buildings and structures,
- (d) to acquire, construct or improve facilities including,
  - (i) rolling stock, furniture and equipment, and
  - (ii) materials acquired for circulation, reference or information purposes by a library board as defined in the *Public Libraries Act, 1984*, and
- (e) to undertake studies in connection with any of the matters in clauses (a) to (d),

1984, c. 57

required for the provision of services designated in a development charge by-law within or outside the municipality, including interest on borrowing for those expenditures under clauses (a), (b), (c) and (d) that are growth-related;

“development” includes redevelopment;

“development charge” means a charge imposed with respect to growth-related net capital costs against land under a by-law passed under section 3;

“development charge by-law” means a by-law passed under section 3;

“front-end payment” means a payment made by an owner pursuant to a front-ending agreement, which may be in addition to a development charge that the owner is required to pay under a development charge by-law, to cover the net capital costs of the services designated in the agreement that are required to enable the land to be developed;

“front-ending agreement” means an agreement made under section 21;

“growth-related net capital cost” means the portion of the net capital cost of services that is reasonably attributable to the need for such net capital cost that results or will result from development in all or a defined part of the municipality;

“local board” means a local board as defined in the *Municipal Affairs Act*, other than a board defined in subsection 29 (6);

R.S.O. 1980,  
c. 307

“municipality” means a city, town, village, township, improvement district or county or a regional, metropolitan or district municipality;

“Municipal Board” means the Ontario Municipal Board;

“net capital cost” means the capital cost less capital grants, subsidies and other contributions made to a municipality or that the council of the municipality anticipates will be made, including conveyances or payments under sections 41, 50 and 52 of the *Planning Act, 1983*, in respect of the capital cost;

1983, c. 1

“owner” means the owner of land or a person who has made application for an approval for the development of land upon which a development charge is imposed;

“prescribed” means prescribed by regulations made under this Act;

“services” means services designated in a development charge by-law or in an agreement made under section 21, as applicable;



“upper tier municipality” means a county or a regional, metropolitan or district municipality.

Adminis-  
tration

**2.** The Minister of Municipal Affairs is responsible for the administration of Parts I, II and IV and the Minister of Education is responsible for the administration of Part III.

## PART I

### DEVELOPMENT CHARGES

By-laws  
respecting  
development  
charges

**3.—(1)** The council of a municipality may pass by-laws for the imposition of development charges against land if the development of the land would increase the need for services and the development requires,

1983, c. 1

- (a) the passing of a zoning by-law or of an amendment thereto under section 34 of the *Planning Act, 1983*;
- (b) the approval of a minor variance under section 44 of the *Planning Act, 1983*;
- (c) A conveyance of land to which a by-law passed under subsection 49 (7) of the *Planning Act, 1983* applies;
- (d) the approval of a plan of subdivision under section 50 of the *Planning Act, 1983*;
- (e) a consent under section 52 of the *Planning Act, 1983*;

R.S.O. 1980,  
c. 84

- (f) the approval of a description under section 50 of the *Condominium Act*; or

R.S.O. 1980,  
c. 51

- (g) the issuing of a permit under the *Building Code Act* in relation to a building or structure.

Exceptions

(2) Subsection (1) does not apply in respect of an action mentioned in clauses (1) (a) to (g) that would have the effect only,

- (a) of permitting the enlargement of an existing dwelling unit; or
- (b) of creating one or two additional dwelling units as prescribed, in prescribed categories of existing residential buildings.

Mandatory  
provisions

- (3) A by-law passed under subsection (1) shall,

- (a) designate those uses of land, buildings or structures upon which a development charge shall be imposed;
- (b) designate the areas within which a development charge shall be imposed;
- (c) establish the development charge, or the schedule of development charges, to be imposed in respect of the designated uses of land, buildings or structures; and
- (d) designate services for which a development charge may be imposed.

(4) A by-law passed under subsection (1) may,

Other provisions

- (a) provide for the indexing of development charges based on one of the prescribed indices; and
- (b) provide that a development charge shall be payable in money or by the provision of services or by a combination of both as may be agreed upon under subsection 9 (9) by the municipality and the owner.

(5) Despite subsection (3), a by-law passed under subsection (1) may,

Idem

- (a) designate categories of institutions for the purposes of clause (b);
- (b) provide for a full or partial exemption of designated categories of institutions from the payment of development charges;
- (c) designate categories of dwelling units as affordable housing; and
- (d) provide for a full or partial exemption of designated categories of affordable housing from the payment of development charges.

(6) No land, except land owned by and used for the purposes of a board as defined in subsection 29 (6) or a municipality, is exempt from a development charge under a by-law passed under subsection (1) by reason only that it is exempt from taxation under section 3 of the *Assessment Act*.

Limited exemption

R.S.O. 1980, c. 31

(7) No development charge may be imposed with respect to,

Restriction on development charges

1983, c. 1

(a) local services installed at the expense of the owner within a plan of subdivision as a condition of approval under section 50 of the *Planning Act, 1983*;

(b) local services installed at the expense of the owner as a condition of approval under section 52 of the *Planning Act, 1983*; or

R.S.O. 1980,  
c. 302

(c) local connections to water mains, sanitary sewers and storm drainage facilities installed at the expense of the owner including amounts imposed under a by-law passed under section 219 of the *Municipal Act*.

Public  
meeting

4.—(1) Before passing a development charge by-law, except a by-law passed pursuant to an order of the Municipal Board made under clause (11) (b), the council,

(a) shall hold at least one public meeting;

(b) shall give notice of the meeting in the manner and to the persons and organizations prescribed; and

(c) shall ensure that sufficient information is made available at the meeting to enable the public to understand generally the development charges proposal.

Right to be  
heard

(2) The meeting referred to in subsection (1) shall be held no earlier than twenty days after the requirements for the giving of notice have been complied with and any person who attends the meeting may make representations in respect of the proposed development charges.

Notice of  
by-law

(3) If the council passes a development charge by-law, except a by-law passed pursuant to an order of the Municipal Board under clause (11) (b), the clerk of the municipality shall, not later than fifteen days after the day the by-law is passed, give written notice of the passing of the by-law in the form and to the persons and organizations prescribed and the notice shall specify the last day for filing a notice of appeal under subsection (4).

Appeal

(4) Any person or organization may, not later than twenty days after written notice under subsection (3) is given, appeal to the Municipal Board by filing with the clerk of the municipality a notice of appeal setting out the objection to the by-law and the reasons in support of the objection.

(5) For the purposes of subsection (4), the written notice shall be deemed to be given, Timing of notice

- (a) where notice is given by publication in a newspaper, on the day that the publication occurs;
- (b) where notice is given by personal service, on the day that service of all required notices is completed; or
- (c) where notice is given by mail, on the day that the mailing of all required notices is completed.

(6) A clerk of a municipality who receives a notice of appeal shall compile a record which shall include, Record

- (a) a copy of the by-law certified by the clerk;
- (b) an affidavit or declaration certifying that the requirements for the giving of notice under subsection (3) have been complied with; and
- (c) the original or a true copy of all written submissions and material received in respect of the by-law before it was passed.

(7) The clerk shall forward the notice of appeal and the record to the secretary of the Municipal Board within thirty days of the last day of appeal and shall provide such other information or material as the Board may require in respect of the appeal. Notice and record to O.M.B.

(8) An affidavit or declaration of the clerk of the municipality that notice was given as required by subsection (3) or that no notice of appeal was filed under subsection (4) within the time allowed for appeal is conclusive evidence of the facts stated therein. Affidavit, declaration conclusive evidence

(9) The Municipal Board shall hold a hearing notice of which shall be given to such persons or organizations and in such manner as the Board may determine. Hearing

(10) The Municipal Board may, where it is of the opinion that the objection to the by-law set out in the notice of appeal is insufficient, dismiss the appeal without holding a full hearing but before dismissing the appeal shall notify the appellant and give the appellant an opportunity to make representations as to the merits of the appeal. Early dismissal of appeal

(11) The Municipal Board may,

Determination by O.M.B.



- (a) dismiss the appeal;
- (b) order the council of the municipality to repeal the by-law in whole or in part or to amend the by-law in accordance with the Board's order; or
- (c) repeal the by-law in whole or in part or amend the by-law in such manner as the Board may determine.

Restrictions  
on  
amendments

(12) Despite subsection (11), the Municipal Board may not amend or order the amendment of a by-law so as to,

- (a) increase a development charge imposed by the by-law; or
- (b) alter the term of the by-law.

Date by-law  
effective

**5.—(1)** A development charge by-law comes into force on the date it is passed or the date specified in the by-law, whichever is later.

Retroactive  
repeal

(2) If the Municipal Board orders the council of a municipality to repeal a by-law in whole or in part, that part of the by-law that is repealed shall be deemed to have been repealed on the day the by-law came into force.

Refund

(3) The municipality shall refund all development charges paid under the by-law or that part of the by-law that is repealed under subsection 4 (11),

- (a) if repealed by the Municipal Board, within thirty days of the date of the order of the Board; or
- (b) if repealed by the council of the municipality, within thirty days of the date of repeal.

Retroactive  
amendments

(4) If the Municipal Board orders the council of a municipality to amend a by-law, the amendment shall be deemed to have come into force on the day the by-law came into force.

Refunds

(5) The municipality shall refund the difference between the development charges paid under that part of the by-law that is amended under subsection 4 (11) and the development charges required to be paid under the amendment,

- (a) if the by-law is amended by the Municipal Board, within thirty days of the date of the order of the Board; or

- (b) if the by-law is amended by the council of the municipality, within thirty days of the date of the amendment.

(6) A repeal or amendment made under subsection 4 (11) is not subject to appeal under subsection 4 (4). Restrictions on appeal

(7) A municipality shall give notice of the particulars of a development charge by-law that is in force in the manner and to the persons prescribed. Notice of by-law

**6.—**(1) A development charge by-law expires five years after the date it comes into force. Expiration of by-law

(2) Despite subsection (1), the council of a municipality may, Idem

- (a) provide in the by-law for a term of less than five years; or

- (b) repeal the by-law.

(3) Amendments to a by-law by council under subsection 4 (11) or 7 (1) do not affect the term of the by-law. Term of by-law

(4) Subject to subsections (5), (6) and (7), the council of a municipality in which a development charge by-law is in force may pass a new development charge by-law. New by-law

(5) Before passing a new development charge by-law, the council shall conduct a review of the development charge policies of the municipality. Review of policies

(6) In conducting a review under subsection (5), council shall ensure that adequate information is made available to the public, and for this purpose shall hold at least one public meeting, notice of which shall be given in at least one newspaper having general circulation in the municipality. Public meeting

(7) Sections 4 and 5 apply with necessary modifications to the passing of a by-law under subsection (4). Procedures

**7.—**(1) The council of a municipality that has passed a development charge by-law may amend the by-law. Amendments

(2) Sections 4 and 5 apply with necessary modifications to an amendment of a development charge by-law under subsection (1). Procedures

## Complaints

8.—(1) An owner may complain in writing to the council of a municipality in respect of the development charge imposed by the municipality on the owner's development that,

- (a) the amount of the development charge imposed was incorrect or was based on incorrect data;
- (b) the amount credited to the owner under section 13 is incorrect;
- (c) the amount of a previous development charge being credited under section 14 is incorrect; or
- (d) there was an error in the application of the development charge by-law.

When  
complaint to  
be made

(2) An owner may not submit a complaint under subsection (1) after ninety days following the latest of,

- (a) the date a building permit is issued;
- (b) the date a development charge is payable under subsection 9 (3); or
- (c) the date a development charge is payable under an agreement under subsection 9 (4) or (8).

## Idem

(3) The complaint shall state the name and address where notices can be given to the complainant and shall state the reasons for the complaint.

## Hearing

(4) The council shall give the complainant the opportunity to make representations and notice of the hearing shall be mailed to the complainant by the clerk not less than fourteen days before the date the complaint is to be considered.

Determi-  
nation by  
council

(5) After hearing the evidence and submissions of the complainant, the council may,

- (a) confirm the development charge; or
- (b) amend the development charge to the extent that, in the opinion of the council, a review of any or all of the matters in subsection (1) justifies such an amendment.

Notice of  
decision

(6) The clerk of the municipality shall, not later than fifteen days after the day a decision is made by the council, give written notice of the decision by mail to the complainant, and the notice shall specify the last day for filing an appeal, which

date shall be no earlier than twenty days after the date the letter is mailed.

(7) The complainant may appeal the decision of the council to the Municipal Board by filing with the clerk of the municipality a notice of appeal setting out the reasons for the appeal. Appeal

(8) The clerk of the municipality who receives a notice of appeal under subsection (7) shall compile a record which shall include, Record

(a) a copy of the development charge by-law certified by the clerk;

(b) an affidavit or declaration certifying that the requirements for the giving of notice have been complied with; and

(c) the original or a true copy of all written submissions and material in support of the complaint.

(9) The clerk shall forward the notice of appeal and the record to the secretary of the Municipal Board within thirty days of the last day of appeal and shall provide such other information and material that the Board may require in respect of the appeal. Notice and record to O.M.B.

(10) The parties to the appeal are the complainant and the municipality. Parties

(11) The Municipal Board shall hold a hearing notice of which shall be given to the parties to the appeal. Notice of hearing

(12) Despite subsection (11), the Municipal Board may, where it is of the opinion that the complaint set out in the notice of appeal is insufficient, dismiss the appeal without holding a full hearing but before dismissing the appeal shall notify the appellant and give the appellant an opportunity to make representations as to the merits of the appeal. Early dismissal

(13) The Municipal Board may make any decision that could have been made by the council of the municipality. Decision by O.M.B.

(14) If the development charge is amended by the council or by the Municipal Board, the municipality shall immediately refund the difference between the development charge paid that was in dispute and the amount of the charge required by the council or the Municipal Board to be paid. Refund



When charge  
is due

9.—(1) A development charge is payable on the date a building permit is issued in relation to a building or structure on land to which a development charge applies.

Effect of  
non-payment

(2) Despite any other Act, a municipality is not required to issue a building permit in relation to a building or structure on land to which a development charge applies unless the development charge has been paid.

Exception

(3) Despite subsection (1), a municipality may, in a development charge by-law, provide that a development charge with respect to water supply services, sanitary sewer services, storm drainage services, transportation services and electrical power or energy services shall be payable, with respect to an approval of a plan of subdivision under section 50 of the *Planning Act, 1983*, immediately upon entering into the subdivision agreement.

1983, c. 1

Agreement  
respecting  
payments

(4) A municipality may enter into an agreement with an owner providing for the payment of a development charge before the date otherwise required for payment under subsection (1) or (3).

Idem

(5) Despite any provision of a development charge by-law, an owner entering into an agreement under subsection (4) is required to pay only the development charge in effect on the date it is payable under the agreement.

Payments  
non-trans-  
ferable

(6) The payments agreed to under subsection (4) are payable by the owner entering into the agreement and are not transferable to a subsequent owner.

Credits non-  
transferable

(7) Credits given under section 13 or 14 to an owner who has entered into an agreement under subsection (4) are not transferable to a subsequent owner.

Exceptions in  
agreements

(8) Despite subsections (1) and (3), a municipality may enter into an agreement with an owner providing for the payment of all or any portion of the development charge on dates later than the issuing of a building permit or the entering into of a subdivision agreement.

Services in  
lieu of  
payment

(9) Despite subsections (1) and (3), a municipality may by agreement permit an owner to provide services in lieu of the payment of all or any portion of a development charge.

Interest

(10) A municipality that has entered into an agreement under subsection (8) may charge interest, at a rate stipulated in the agreement, on that part of the development charge not paid in accordance with subsection (1).

**10.**—(1) If a development charge is imposed by an upper tier municipality, the treasurer of the upper tier municipality shall certify to the treasurer of the area municipality in which the land is located that the charge has been imposed, the amount of the charge, the manner in which the charge is to be paid and when the charge is due. Upper tier municipalities

(2) The treasurer of the area municipality shall collect the charge imposed by the upper tier municipality when due and shall, unless an extension of time is agreed to by the upper tier municipality, remit the amount of the charge to the treasurer of the upper tier municipality on or before the 25th day of the month following the month in which the charge is received by the area municipality. Collection of development charges

(3) Despite subsection (2), a development charge imposed by an upper tier municipality under subsection 9 (3), (4) or (8) may be collected by the upper tier municipality. Idem

(4) The treasurer of an upper tier municipality that has collected a development charge under subsection (3) shall certify to the treasurer of the area municipality in which the land is located that the charge has been collected. Certification

(5) If building permits are issued by an upper tier municipality, the chief building official of the upper tier municipality shall certify to the treasurer of the area municipality in which the land is located that all applicable law within the meaning of the *Building Code Act*, except the payment of development charges, has been complied with. Idem  
R.S.O. 1980,  
c. 51

(6) The treasurer of the area municipality shall, upon receipt of the certificate under subsection (5) and upon payment of all development charges and education development charges under Part III imposed on the development, immediately certify to the chief building official of the upper tier municipality that all development charges and education development charges have been paid. Idem

(7) If building permits are issued by an upper tier municipality, the upper tier municipality may, if agreed to by the area municipality, collect all development charges and education development charges. Delegation of collection powers

**11.** A municipality that has passed a development charge by-law may register the by-law or a certified copy of it on the land to which it applies. Notice of by-law

**12.**—(1) If the development charge or any part thereof imposed by a municipality, other than an upper tier municipi- Collection

pality, remains unpaid after the due date, the amount unpaid shall be added to the tax roll and shall be collected as taxes.

Idem

(2) If the development charge or any part thereof imposed by an upper tier municipality remains unpaid after the due date, the treasurer of the upper tier municipality shall certify to the treasurer of the area municipality in which the land is located that the amount is unpaid and the amount unpaid shall be added to the tax roll of the area municipality and shall be collected as taxes.

Credit for  
services

**13.**—(1) A municipality that permits the provision of services in lieu of the payment of all or any portion of a development charge shall give a credit for an amount equal to the reasonable cost to the owner of providing the services.

Idem

(2) If a municipality and owner enter an agreement that permits an owner to provide services additional to or of a greater size or capacity than is required under a development charge by-law, the municipality may agree to give a credit for an amount up to the reasonable cost to the owner of providing the services.

Idem

(3) A credit given under subsection (2) shall not be charged to a reserve fund established under section 16.

Credits

1983, c. 1

**14.**—(1) If an owner or a former owner has, before the coming into force of a development charge by-law, paid all or any portion of a charge related to development pursuant to an agreement under section 50 or 52 of the *Planning Act, 1983* or a predecessor thereof with respect to land within the area to which the by-law applies, the municipality shall give a credit for the amount of the charge paid.

Idem

(2) If an owner or a former owner has, before the coming into force of a development charge by-law, provided services in lieu of the payment of all or any portion of a charge related to development pursuant to an agreement under section 50 or 52 of the *Planning Act, 1983* or a predecessor thereof with respect to land within the area to which the by-law applies, the municipality shall give a credit for an amount equal to the reasonable cost to the owner or to the former owner of providing the services.

Idem

R.S.O. 1980,  
c. 302;  
1960-61,  
c. 120;  
1961-62,  
c. 171

(3) If an owner is required to pay a charge to a municipality under a by-law passed under section 215 of the *Municipal Act*, section 4 of *The City of Ottawa Act, 1960-61* or section 1 of *The City of Toronto Act, 1961-62*, the municipality shall reduce the development charge payable under the develop-



ment charge by-law by an amount equal to the charge imposed by that by-law.

(4) If a conflict exists between the provisions of a development charge by-law and an agreement referred to in subsection (1) or (2), the provisions of the agreement prevail to the extent of the conflict. Conflicts

(5) If a conflict exists between the provisions of a development charge by-law and any other agreement between a municipality and an owner or a former owner with respect to land within the area to which the by-law applies, the provisions of the agreement prevail to the extent that there is a conflict. Idem

**15.**—(1) A municipality shall not levy more than one development charge on land to which a development charge applies even though two or more of the actions described in clauses 3 (1) (a) to (g) are required before that land can be developed. Multiple requirements

(2) Despite subsection (1), if two or more of the actions described in clauses 3 (1) (a) to (g) occur at different times, a municipality may require the payment of an additional development charge if the subsequent action has the effect of increasing the need for services. Idem

**16.**—(1) Payments received by a municipality under this Part shall be maintained in a separate reserve fund or funds and shall be used only to meet growth-related net capital costs for which the development charge was imposed. Reserve fund

(2) Subsections 165 (2) and (3) of the *Municipal Act* apply with necessary modifications to payments received by a municipality under this Part. R.S.O. 1980,  
c. 302,  
s. 165  
applies

**17.** The treasurer of the municipality shall, in each year, on or before such date as council may direct, furnish to the council a statement in respect of each reserve fund established under section 16 containing the information prescribed. Statement of treasurer

**18.**—(1) A municipality shall pay interest to persons to whom overpayments are refunded under subsection 5 (3), 5 (5) or 8 (14) calculated in the manner prescribed. Interest

(2) Interest shall be calculated from the time that the overpayment was collected to the time that the refund is paid. Idem

(3) The refund shall include the interest owed. Idem



## Regulations

**19.** The Lieutenant Governor in Council may make regulations,

- (a) prescribing, for the purposes of section 3, the manner in which development charges shall be calculated;
- (b) prescribing the number of additional dwelling units and the categories of existing residential buildings for the purposes of clause 3 (2) (b);
- (c) prescribing, for the purposes of section 3, those services for which development charges shall not be imposed;
- (d) prescribing, for the purposes of clause 3 (4) (a), an index or indices that may be used;
- (e) prescribing, for the purposes of subsection 4 (1), the persons that are to be given notice and the manner in which notice is to be given;
- (f) prescribing, for the purposes of subsection 4 (3), the persons and agencies that are to be given notice and the manner and form in which notice is to be given;
- (g) prescribing, for the purposes of subsection 5 (7), the information to be provided in the notice and the persons to whom notice is to be given;
- (h) prescribing, for the purposes of section 13, the manner in which credits shall be calculated;
- (i) prescribing the information to be provided in a statement of the treasurer under section 17;
- (j) prescribing methods of calculating and establishing interest rates under section 18;
- (k) prescribing anything that in Parts I, II and IV of this Act may be prescribed by regulation.

## PART II

### FRONT-END PAYMENTS

## Definition

**20.** In this Part, "benefiting owner" means an owner of land within a benefiting area other than an owner who is party to a front-ending agreement.

**21.**—(1) A municipality that has passed a development charge by-law may enter into a front-ending agreement or agreements with any or all owners within a benefiting area providing for the payment by those owners of a front-end payment or for the installation of services by the owners, or any combination thereof.

Front-ending  
agreement

(2) A front-ending agreement shall contain,

Contents of  
agreement

- (a) a list of the services for which front-end payments shall be made or services installed by the owner;
- (b) the estimated cost of installing the services;
- (c) the proportion of the front-end payment or the cost of the installation of services to be paid by each owner who is a party to the agreement;
- (d) the agreement of the owners to immediately pay to the municipality the actual costs incurred by the municipality in the installation of the services in accordance with the proportions determined under clause (c);
- (e) the agreement of the municipality to immediately reimburse the owners if the actual cost incurred by the municipality in the installation of the services is lower than the estimated cost in accordance with the proportions determined under clause (c);
- (f) a description of the benefiting area for each of the services;
- (g) a list of the services in the agreement for which a development charge is payable;
- (h) a list of the services in the agreement which are services described in subsection 3 (7);
- (i) a description of the manner in which the portion of the payment to be made by each benefiting owner with respect to the services listed in clause (g) is to be calculated;
- (j) if the agreement provides for the installation of services by the owners who are parties to the agreement, the agreement of the municipality to use the reasonable cost to the owners of installing the services in making the calculations under clause (i);

(k) the agreement of the municipality to require each benefiting owner to pay, with respect to the services listed in clause (g), that benefiting owner's portion of the front-end payment; and

(l) the period of time during which the agreement is in force.

Idem

(3) A front-ending agreement may provide that the reasonable costs to the municipality of administering the agreement, including the cost of consultants and studies required in preparation of the agreement, are to be included in calculating the front-end payment.

Idem

(4) A front-ending agreement may provide for the indexing of the payments required to be made by the benefiting owner under clause (2) (k).

Front-ending agreement

**22.**—(1) The municipality shall give notice of the front-ending agreement,

(a) by mailing it to all owners within the benefiting area; or

(b) by publishing it in a newspaper having general circulation in the municipality.

Contents of notice

(2) The notice referred to in subsection (1) shall explain the nature and purpose of the agreement and shall indicate that the agreement can be viewed in the office of the clerk during normal office hours.

Objections

(3) Any owner to whom notice of the agreement is given, except a party to the agreement, may object to the agreement by filing a written objection with the clerk of the municipality within twenty-one days of the date of the giving of the notice of the agreement.

Notice

(4) For the purposes of subsection (3), notice shall be deemed to be given,

(a) where notice is given by mail, on the day the mailing of all required notices is completed; or

(b) where notice is given by publication in a newspaper, on the day that the publication occurs.

Effective date of agreement

(5) If no objection is filed within twenty-one days, the agreement shall be deemed to have come into effect on the date it was fully executed.

(6) If an objection is filed, the clerk shall immediately forward it to the Municipal Board. Objections to O.M.B.

(7) The Municipal Board shall hold a hearing and shall confirm the agreement, refuse to confirm the agreement or direct a municipality to make changes to the agreement. Hearing to O.M.B.

(8) If an objection is filed under subsection (3), the agreement comes into effect when approved by the Municipal Board or, if changes are directed by the Board, when the municipality and the other parties to the agreement have executed the agreement as directed to be changed by the Board. Effective date where objection

(9) The parties to the Municipal Board hearing are the municipality, the other parties to the agreement and the owners who filed written objections within the period referred to in subsection (3). Parties

(10) The Municipal Board may, where it is of the opinion that the objection to the agreement is insufficient, dismiss the objection without holding a full hearing, but before dismissing the objection it shall notify the objector and give the objector an opportunity to make representations as to the merits of the objection. Early dismissal of objection

**23.** Section 64 of the *Ontario Municipal Board Act* does not apply to a front-ending agreement or to special accounts established under sections 27 and 28. O.M.B. approval not required  
R.S.O. 1980, c. 347

**24.** An agreement entered into under section 21 may be registered against the land in the benefiting area, and subject to the *Registry Act* and the *Land Titles Act*, the municipality, Registration  
R.S.O. 1980, cc. 445, 230

(a) may enforce the provisions of the agreement against any and all subsequent owners of the lands owned by the parties thereto; and

(b) may enforce the provisions of the agreement made under clauses 21 (2) (d) and (k), subsection 21 (4) and section 26 against any and all owners and subsequent owners of lands in the benefiting area.

**25.** If a front-ending agreement is in effect, no person shall undertake any development that requires an approval mentioned in subsection 3 (1) within a benefiting area until section 26 has been complied with. Compliance necessary

**26.** A municipality that has entered into a front-ending agreement shall require a benefiting owner to pay the benefiting owner's portion of the front-end payment as a condition of Payments to parties to agreement



an approval granted during the term of the agreement of any development on that portion of the benefiting owner's land located within the benefiting area.

Special  
accounts

**27.**—(1) The municipality shall place all money received from the parties to the front-ending agreement in a special account and shall use the funds in such account only for,

- (a) paying the actual net cost of the installation of the services specified in the agreement; and
- (b) reimbursing to the parties to the agreement any funds remaining in the account after the installation of the services referred to in clause (a).

Idem

(2) During the term of the agreement the municipality shall provide annually to the parties to the front-ending agreement a statement setting out the particulars of payments made out of the account, the balance remaining in the account and additional payments, if any, that are or will be required from the parties pursuant to the agreement.

Distribution  
of section 26  
funds

**28.**—(1) The municipality shall place money received under section 26 in a special account and shall, immediately upon receipt of the money, by registered mail,

- (a) notify the parties to the front-ending agreement that the money is available to be paid out; and
- (b) request the parties to give directions to the municipality as to whom the money is to be paid.

Payment to  
party

(2) Upon receipt of a direction from a party to a front-ending agreement, the municipality shall pay to the party named in the direction the proportion of the money received by the municipality to which the party is entitled.

Payment into  
court

(3) If within ninety days of mailing the notice under subsection (1) the municipality has not received a direction from a party, the municipality may pay the money owing to that party into the Supreme Court.

Notification  
of payment

(4) A municipality that has paid money into court under subsection (3) shall immediately notify the party to whom the money is owing, by registered mail sent to the party's last known address, that,

- (a) the money has been paid into court; and

- (b) the party must apply to the court for the release of the money.

(5) If the party to whom notice was sent, or an heir, successor or assign thereof, has not applied to the court under clause (4) (b) within twelve months of the mailing of the notice, the municipality may apply to the court for the release of the money to the municipality.

Application  
for release of  
funds

(6) If the court has not received a request for the release of the money before the application of the municipality is received, it shall release the money to the municipality.

Release of  
funds

(7) The municipality may place money released by the court in its general account.

Funds to  
general  
account

(8) The municipality is required to reimburse the parties to the agreement only when the money referred to in subsection (1) is paid and only in accordance with subsections (1) to (4).

Limited  
responsibility

(9) Payments made under subsection (1) with respect to services referred to in clause 21 (2) (g) shall be deducted from the amount otherwise payable by an owner pursuant to a development charge by-law.

Deductions

### PART III

#### EDUCATION DEVELOPMENT CHARGES

**29.—**(1) In this Part,

Definitions

“board” means a board described in paragraph 3 of subsection 1 (1) of the *Education Act*, other than,

R.S.O. 1980,  
c. 129

- (a) a board established under section 70 of the *Education Act*,
- (b) a board of education for an area municipality in The Municipality of Metropolitan Toronto,
- (c) The Metropolitan Toronto French-Language School Council, and
- (d) The Ottawa-Carleton French-language School Board,

but includes the public sector and the Roman Catholic sector of The Ottawa-Carleton French-language School Board and The Metropolitan Toronto School Board;

“commercial development” means a development other than a residential development;

“education capital cost” means costs incurred or proposed to be incurred by a board,

- (a) to acquire school facilities to provide pupil accommodation,
- (b) to construct, expand, alter or improve school facilities to provide pupil accommodation,
- (c) to furnish or equip the school facilities described in clauses (a) and (b), and
- (d) to undertake studies in connection with any of the matters in clauses (a), (b) and (c);

“education development charge” means a development charge imposed under a by-law passed under section 30 respecting growth-related net education capital costs incurred or proposed to be incurred by a board;

“education development charge by-law” means a by-law passed under subsection 30 (1);

“education development charges account” means an account established in accordance with the regulations for money collected under an education development charge by-law;

“growth-related net education capital cost” means the prescribed portion of the net education capital cost reasonably attributable to the need for such net education capital cost that is attributed to or will result from development in all or part of the area of jurisdiction of a board;

“net education capital cost” means the education capital cost reduced by any capital grants and subsidies paid or that may be paid to the board in respect of such education capital cost;

“owner” means the owner of the land or a person who has made application for an approval for the development of the land upon which an education development charge is imposed;

“pupil accommodation” means a building to accommodate pupils or an addition or alteration to a building that enables the building to accommodate an increased number of pupils;

“school facilities” means a school site described in paragraph 53 of subsection 1 (1) of the *Education Act*.

R.S.O. 1980,  
c. 129

(2) In this Part, reference to the area of jurisdiction of a board, in the case of a county combined separate school board or a district combined separate school board, is the area designated by the regulations made under the *Education Act*.

Interpretation

**30.**—(1) If there is residential development in the area of jurisdiction of a board that would increase education capital costs, the board may pass by-laws for the imposition of education development charges against land undergoing residential and commercial development in that area if the residential and commercial development require,

Education  
development  
charge by-law

(a) the passing of a zoning by-law or of an amendment thereto under section 34 of the *Planning Act, 1983*;

1983, c. 1

(b) the approval of a minor variance under section 44 of the *Planning Act, 1983*;

(c) a conveyance of land to which a by-law passed under subsection 49 (7) of the *Planning Act, 1983* applies;

(d) the approval of a plan of subdivision under section 50 of the *Planning Act, 1983*;

(e) a consent under section 52 of the *Planning Act, 1983*;

(f) the approval of a description under section 50 of the *Condominium Act*; or

R.S.O. 1980,  
c. 84

(g) the issuing of a permit under the *Building Code Act* in relation to a building or structure.

R.S.O. 1980,  
c. 51

(2) Subsection (1) does not apply in respect of an action mentioned in clauses (1) (a) to (g) that would have the effect only,

Exceptions

(a) of permitting the enlargement of an existing dwelling unit; or

(b) of creating one or two additional dwelling units as prescribed, in prescribed categories of existing residential buildings.

(3) A by-law passed under subsection (1) shall,

Contents of  
by-law



- (a) designate the categories of residential development and commercial development upon which an education development charge shall be imposed;
- (b) designate those uses of land, buildings or structures upon which an education development charge shall be imposed;
- (c) designate the areas in which an education development charge shall be imposed; and
- (d) subject to the regulations, establish the education development charges to be imposed in respect of the designated categories of development and the designated uses of land, buildings or structures.

## Indexing

(4) A by-law passed under subsection (1) may provide for the indexing of education development charges based on one of the prescribed indices.

## Limited exemption

(5) No land, except land owned by and used for the purposes of a board or a municipality, is exempt from an education development charge under a by-law passed under subsection (1) by reason only that it is exempt from taxation under section 3 of the *Assessment Act*.

R.S.O. 1980,  
c. 31

## Interpretation

(6) In subsection (5), "board" has the same meaning as in section 29 except that it includes the boards described in clauses (a) to (d) of that definition.

## Conditions

(7) The imposition of an education development charge by a board is subject to the prescribed conditions.

## Public meeting

**31.—**(1) Before passing an education development charge by-law, except a by-law passed pursuant to an order of the Municipal Board made under clause (11) (b), the board,

- (a) shall hold at least one public meeting;
- (b) shall give notice of the meeting in the manner and to the persons and organizations prescribed; and
- (c) shall ensure that sufficient information is made available to enable the public to understand generally the education development charge proposal.

## Right to be heard

(2) The meeting referred to in subsection (1) shall be held no earlier than twenty days after the requirements for the giving of notice have been complied with and any person who

attends the meeting may make representations in respect of the proposed education development charges.

(3) If the board passes an education development charge by-law, other than a by-law passed pursuant to an order of the Municipal Board under clause (11) (b), the secretary of the board shall, not later than fifteen days after the day the by-law is passed, give written notice of the passing of the by-law in the manner and in the form and to the persons and organizations prescribed and the notice shall specify the last day for filing a notice of appeal under subsection (4). Notice of  
by-law

(4) Any person or organization may, not later than twenty days after written notice under subsection (3) is given, appeal to the Municipal Board by filing with the secretary of the board a notice of appeal setting out the objection to the by-law and the reasons in support of the objection. Appeal

(5) For the purposes of subsection (4), written notice shall be deemed to be given, Timing of  
notice

- (a) where notice is given by publication in a newspaper, on the day that the publication occurs;
- (b) where notice is given by mail, on the day that the mailing of all required notices is completed; or
- (c) where notice is given by publication and by mail, on the later of the days that publication occurs or mailing is completed.

(6) The secretary of the board who receives a notice of appeal shall compile a record which shall include, Record

- (a) a copy of the by-law certified by the secretary;
- (b) an affidavit or declaration certifying that the requirements for the giving of notice under subsection (3) have been complied with; and
- (c) the original or a true copy of all written submissions and material received in respect of the by-law before it was passed.

(7) The secretary of the board shall forward the notice of appeal and the record to the secretary of the Municipal Board within thirty days of the last day of appeal and shall provide such other information or material as the Municipal Board may require in respect of the appeal. Notice and  
record to  
O.M.B.

Affidavit,  
declaration  
conclusive  
evidence

(8) An affidavit or declaration of the secretary of the board that notice was given as required by subsection (3) or that no notice of appeal was filed under subsection (4) within the time allowed for appeal is conclusive evidence of the facts stated therein.

Hearing

(9) The Municipal Board shall hold a hearing notice of which shall be given to such persons or organizations and in such manner as the Municipal Board may determine.

Early  
dismissal of  
appeal

(10) The Municipal Board may, where it is of the opinion that the objection to the by-law set out in the notice of appeal is insufficient, dismiss the appeal without holding a full hearing but before dismissing the appeal shall notify the appellant and give the appellant the opportunity to make representations as to the merits of the appeal.

Determi-  
nation by  
O.M.B.

(11) The Municipal Board may,

- (a) dismiss the appeal;
- (b) order the board to repeal the by-law in whole or in part or to amend the by-law in accordance with the Municipal Board's order; or
- (c) repeal the by-law in whole or in part or amend the by-law in such manner as the Municipal Board may determine.

Restriction  
on  
amendments

(12) Despite subsection (11), the Municipal Board may not amend or order the amendment of a by-law so as to,

- (a) increase an education development charge imposed by the by-law; or
- (b) alter the term of the by-law.

When by-law  
effective

**32.—**(1) An education development charge by-law comes into force on the fifth day following the day it is passed or the day specified in the by-law, whichever is later.

Retroactive  
repeal

(2) If the Municipal Board orders a board to repeal a by-law in whole or in part, that part of the by-law that is repealed shall be deemed to have been repealed on the day the by-law came into force.

Refund

(3) The treasurer of the education development charges account shall refund all education development charges paid under the by-law or that part of the by-law that is repealed under subsection 31 (11),



- (a) if repealed by the Municipal Board, within thirty days of the date of the order of the Municipal Board; or
- (b) if repealed by the board, within thirty days of the date of repeal.

(4) If the Municipal Board orders a board to amend a by-law in whole or in part, that part of the by-law that is amended ceases to be in force and the amendment shall be deemed to have come into force on the date the by-law came into force.

Retroactive amendments

(5) The treasurer of the education development charges account shall refund the difference between the education development charges paid under that part of the by-law that is amended under subsection 31 (11) and the education development charges required to be paid under the amendment,

Refunds

- (a) if the by-law is amended by the Municipal Board, within thirty days of the date of the order of the Municipal Board; or
- (b) if the by-law is amended by the board, within thirty days of the date of the amendment.

(6) A repeal or amendment made under subsection 31 (11) is not subject to appeal under subsection 31 (4).

Restrictions on appeal

(7) A refund under this section shall be paid to the owner and the treasurer of the education development charges account shall inform the municipal treasurer of the amount of the refund.

Direct refund

**33.—(1)** An education development charge by-law expires five years after the date it comes into force.

Expiration of by-law

(2) Despite subsection (1), a board may,

Idem

- (a) provide in the by-law for a term of less than five years; or
- (b) repeal the by-law.

(3) Despite subsection (1), if an education development charge by-law is in force in respect of an area, the term of an education development charge by-law passed by another board with respect to the same area shall expire on the date of expiration of the first-mentioned by-law.

Concurrent terms



Change of  
term

(4) Where a board repeals its education development charge by-law and another board that has jurisdiction in all or part of the same area has passed a by-law that under subsection (3) would expire on the date of expiration of the first-mentioned by-law, that other board may determine that the by-law shall be in effect for up to five years after the date it comes into force and, where it does so, the board shall give notice of its determination to the same persons and in the same manner as provided under subsection 37 (1).

New  
education  
development  
charge by-law

(5) Subject to subsections (6), (7) and (8), a board that has passed an education development charge by-law that is in force may pass a new education development charge by-law.

Review of  
policies

(6) Before passing a new education development charge by-law, the board shall conduct a review of the education development charge policies of the board.

Public  
meeting

(7) In conducting a review under subsection (6), the board shall ensure that adequate information is made available to the public, and for this purpose shall hold at least one public meeting, notice of which shall be given in at least one newspaper having general circulation in the area of jurisdiction of the board.

Idem

(8) Sections 31 and 37 apply with necessary modifications to a by-law under subsection (5).

Amendment

**34.—**(1) A school board may amend an education development charge by-law and the amendment shall come into force on the fifth day following the date the amendment is passed and the part of the by-law that is amended ceases to be in force on that day.

Idem

(2) Sections 31 and 37 apply with necessary modifications to an amendment made under this section.

Payment of  
charge

**35.—**(1) An education development charge is payable,

- (a) to the municipality in which the development takes place on the date a building permit is issued in relation to a building or structure on land to which an education development charge applies; or
- (b) if the development takes place in territory without municipal organization, to the board that imposed the education development charge thirty days after the board mails a notice to the owner setting out the amount of the charge.

(2) An education development charge imposed by a board in respect of commercial development is the amount determined in the manner prescribed or calculated using the formula prescribed.

Commercial  
development

(3) Despite any other Act, a municipality is not required to issue a building permit in relation to a building or structure on land to which an education development charge by-law applies unless the education development charge has been paid.

Charge to be  
paid before  
building  
permit issued

(4) Despite subsection (1), and subject to subsection (5) and the consent of the Minister of Education, a board may by agreement permit an owner to provide school facilities in lieu of the payment of all or any portion of an education development charge and the board,

Facilities in  
lieu of  
payment

(a) shall advise the treasurer of the municipality in which the land is situate of the amount of the credit that shall be applied against the education development charge; or

(b) if the land is located in territory without municipal organization, shall provide a credit to the owner against the educational development charge.

(5) If more than one board has jurisdiction in an area and one or more boards are to receive school facilities under subsection (4), all of the boards that have imposed an education development charge in that area are required to be parties to the agreement.

Necessary  
parties

**36.—**(1) An owner or board may complain in writing to the council of the municipality in which the land is situate or, where the land is situate in territory without municipal organization, an owner may complain to the board that, in respect of the education development charge of that owner,

Complaints

(a) the amount of the education development charge imposed was incorrect or based on incorrect data;

(b) there was an error in the application of the education development charge by-law; or

(c) the amount credited to an owner under subsection 35 (4) is incorrect.

(2) An owner or board may not submit a complaint under subsection (1) after ninety days following the later of,

When  
complaint to  
be made

(a) the date a building permit is issued, or if development takes place in territory without municipal organization, the date that the education development charge is payable under clause 35 (1) (b); or

(b) the date an agreement is entered into under subsection 35 (4).

Procedures  
adopted

(3) Subsections 8 (3) to (14) apply with necessary modifications to a complaint under subsection (1).

Refunds

(4) If a final determination of a complaint has been made and a refund is due to the owner, the treasurer of the education development charges account shall pay the amount of the refund to the treasurer of the municipality who shall reimburse the owner.

Idem

(5) If a final determination of a complaint has been made and a refund is due to the school board, the treasurer of the municipality shall pay the amount of the refund to the treasurer of the education development charges account.

Underpayments

(6) If a final determination of a complaint has been made and the owner is required to pay an additional amount, the treasurer of the municipality or, in respect of territory without municipal organization, the treasurer of the board, shall collect the additional amount due from the owner and shall remit the amount to the treasurer of the education development charges account.

Distribution  
of by-law

**37.**—(1) A board that passes a by-law under subsection 30 (1) shall submit to the treasurer of each municipality all or part of which is made subject to an education development charge a copy of the by-law and provide a copy to the secretary of any other board that has jurisdiction in the same or part of the same area of the board that passed the by-law and forward a copy to the Minister of Education.

Special  
accounts

R.S.C. 1985,  
c. B-1  
1987, c. 33

(2) Educational development charges accounts shall be established in accordance with the regulations and deposited with a chartered bank listed in Schedule A to the *Bank Act* (Canada) or a trust corporation registered under the *Loan and Trust Corporations Act, 1987*.

Territory  
without  
municipal  
organization

(3) Where the area of jurisdiction of a board includes territory without municipal organization, all or part of which is made subject to an education development charge, the board shall exercise the powers and duties of a municipal council for such territory in respect of collecting the charge and the offic-



ers of the board have the same powers and duties as similar officers in a municipality.

(4) Where an education development charge is imposed by a board, the treasurer of the municipality or board, as the case requires, shall collect the charge imposed when due and, on or before the 25th day of the month next following the month in which the charge is collected, shall deposit the amount of the charge in the education development charges account established in respect of the by-law under which the charge is imposed.

Collection of charge

(5) On or before the fifth day of the month following a month in which a deposit is made under subsection (4), the treasurer of the municipality shall forward to the treasurer of the board or the treasurer of the board shall prepare a statement setting out the prescribed information in respect of the period that began on the 26th day of the month before the preceding month and that ended on the 25th day of the preceding month.

Statement

(6) If two or more boards have imposed an education development charge by-law upon an area, the statement mentioned in subsection (5) shall be prepared in respect of the money collected and forwarded to the treasurer of each board that passed a by-law under which the money was collected.

Idem

**38.** A board that has passed an education development charge by-law may register the by-law or a certified copy of it on the land to which it applies.

Registration of notice

**39.** If an education development charge or any part thereof remains unpaid after the due date, the amount unpaid shall be added to the tax roll of the municipality or board, as the case requires and shall be collected as taxes and remitted to the treasurer of the education development charges account established in respect of the by-law under which the education development charge is imposed.

Collection

**40.** On or before the 25th day of the month next following the month in which an education development charge is collected under section 39, the municipality shall pay to the treasurer of the education development charges account all money received in payment of education development charges.

Transfer of money

**41.** If an upper tier municipality issues building permits, subsections 32 (7), 35 (1) and (4) and sections 36, 37 and 40 apply to the upper tier municipality and not to the area municipality.

Upper tier municipalities



## Interest

**42.**—(1) The treasurer of the education development charges account shall pay interest out of the account to persons to whom overpayments are refunded under subsections 32 (3) and (5) and 36 (4) calculated in the manner prescribed.

## Period during which interest is payable

(2) Interest shall be calculated from the time that the overpayment was collected to the time that the refund is paid.

## Payment of interest

(3) The refund shall include the interest owed.

## Regulations

**43.** The Lieutenant Governor in Council may make regulations that may have general or particular application in respect of a board,

- (a) respecting any matter that is referred to as prescribed by the regulations;
- (b) prescribing forms and providing for their use;
- (c) governing the establishment and administration of the education development charges account;
- (d) providing for the application, placement in a reserve, withdrawal and use of the money deposited in or accredited to an education development charges account and requiring the approval of the Minister in respect of the manner in which or the rate at which the money is withdrawn;
- (e) prescribing the powers of the treasurer of the education development charges account in relation to the withdrawal of funds;
- (f) requiring the approval of the Minister of Education to any factor, criterion, rate, amount, portion, estimate or project used in determining an education development charge;
- (g) prescribing the manner of calculating or determining education development charges and prescribing classes of persons that may make determinations necessary for the calculation of education development charges;
- (h) providing for the sharing of proceeds where more than one board establishes a charge in respect of the same area;
- (i) prescribing, for the purposes of subsection 30 (4), an index or indices that may be used;

- (j) prescribing information which boards must provide to other boards and to the Minister for the purposes of developing education development charges under this Part;
- (k) prescribing methods of calculating and establishing interest rates under section 42;
- (l) prescribing the manner in which notice shall be given wherever notice is required under this Part, the persons and agencies to whom notice shall be given, and the form of the notice;
- (m) prescribing the terms of agreements for credit in lieu of payment of education development charges, determining the amount of the credit and governing the allocation of the credit between or among boards;
- (n) requiring a board to exempt an owner from an educational development charge if the owner meets the prescribed conditions.

## PART IV

### GENERAL

**44.**—(1) A by-law or resolution providing for the payment of charges related to development that is in effect on the date of the coming into force of this Act shall remain in effect until the earliest of,

Existing  
development  
charges  
by-law

- (a) the repeal of the by-law or resolution;
- (b) the coming into force of a by-law under section 3;  
or
- (c) two years after the date of the coming into force of this Act.

(2) A by-law or resolution referred to in subsection (1) shall not be amended during the period it remains in effect.

No  
amendments  
permitted

(3) Subsection (1) does not apply with respect to a by-law referred to in subsection 14 (3) or to a by-law passed under section 41 of the *Planning Act, 1983*.

Exceptions

**45.**—(1) A municipality shall not enter into an agreement under section 50 or 52 of the *Planning Act, 1983* that imposes

Certain  
agreements  
under  
1983, c. 1

a charge related to a development, except a charge referred to in subsection 3 (7), after the earlier of,

- (a) the coming into force of a by-law under section 3;  
or
- (b) two years after the date of the coming into force of this Act.

Idem

(2) An agreement with respect to charges related to development made under section 50 or 52 of the *Planning Act, 1983* that is in effect on the earlier of the dates referred to in clauses (1) (a) and (b) remains in effect.

Referrals to  
continue

**46.**—(1) A request made before the coming into force of this Act for a referral under subsection 50 (17) of the *Planning Act, 1983* with respect to a condition relating to a charge related to development shall be continued and disposed of under the *Planning Act, 1983*.

Appeals  
under  
1983, c. 1  
continued

(2) An appeal made before the coming into force of this Act under subsection 52 (7) of the *Planning Act, 1983* with respect to a condition relating to a charge related to development shall continue and be disposed of under the *Planning Act, 1983*.

Conflicts

(3) If a decision of the Municipal Board respecting a matter mentioned under subsection (1) or (2) conflicts with a development charge by-law, the decision of the Board prevails to the extent of the conflict.

Agreements  
not affected  
1983, c. 1

**47.** Except as stated herein, this Act does not affect an agreement made under section 50 or 52 of the *Planning Act, 1983*.

No right of  
petition  
R.S.O. 1980,  
c. 347

**48.** Despite section 94 of the *Ontario Municipal Board Act*, there is no right to file a petition under that section in respect of any order or decision of the Municipal Board made in respect of any matter appealed to the Board under this Act.

Conflicts

**49.** In the event of conflict between the provisions of this Act and any other general or special Act, the provisions of this Act prevail.

Commence-  
ment

**50.** This Act comes into force on the day it receives Royal Assent.

Short title

**51.** The short title of this Act is the *Development Charges Act, 1989*.

# Bill 21

## **An Act to amend the Fuel Tax Act, 1981**

**The Hon. B. Grandmaître**  
*Minister of Revenue*

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*1st Reading*      May 17th, 1989  
*2nd Reading*  
*3rd Reading*  
*Royal Assent*

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#### EXPLANATORY NOTE

The purpose of the Bill is to implement the Treasurer's 1989 Budget proposal to increase, effective May 18, 1989, the tax on clear fuel for general use from 9.9 cents to 10.9 cents per litre and the tax on clear fuel used in railway equipment from 3.1 cents to 3.4 cents per litre.

# Bill 21

1989

## An Act to amend the Fuel Tax Act, 1981

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

**1.** Subsection 4 (1) of the *Fuel Tax Act, 1981*, being chapter 59, as re-enacted by the Statutes of Ontario, 1985, chapter 23, section 2, is repealed and the following substituted therefor:

(1) Every person who is a collector, importer, registered consumer or purchaser shall pay to the Treasurer a tax at the rate of, Tax on clear fuel

- (a) 10.9 cents per litre on each litre of clear fuel received or used by the person in Ontario to generate power in a motor vehicle other than railway equipment operated on rails in connection with a public transportation system; and
- (b) 3.4 cents per litre on each litre of clear fuel received or used by the person in Ontario to propel railway equipment on rails where such equipment is operated in connection with and as part of a public transportation system.

**2.** This Act shall be deemed to have come into force on the 18th day of May, 1989. Commence-  
ment

**3.** The short title of this Act is the *Fuel Tax Amendment Act, 1989*. Short title

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# Bill 21

## **An Act to amend the Fuel Tax Act, 1981**

The Hon. B. Grandmaître  
*Minister of Revenue*

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<i>1st Reading</i>	May 17th, 1989
<i>2nd Reading</i>	June 26th, 1989
<i>3rd Reading</i>	
<i>Royal Assent</i>	

*(Reprinted as amended by the Committee of the Whole House)*

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## EXPLANATORY NOTES

SECTION 1. The definitions are complementary to the amendments set out in sections 3 and 4 of the Bill.

SECTION 2. This amendment implements the Treasurer's 1989 Budget proposal to increase, effective May 18, 1989, the tax on clear fuel for general use from 9.9 cents to 10.9 cents per litre and the tax on clear fuel used in railway equipment from 3.1 cents to 3.4 cents per litre.

SECTION 3. This amendment sets out the collection and remittance obligations of importers, and requires importers who are not collectors to account for the tax they may be obliged to collect and to pay at the point of entry into Ontario to officials authorized by the Minister.

SECTION 4. This amendment permits officials authorized by the Minister at border points to request the specified information from those transporting bulk fuel and to detain a motor vehicle until correct information is provided and until the required remittance and returns are made by the importer.

# Bill 21

1989

## An Act to amend the Fuel Tax Act, 1981

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1.—(1) Section 1 of the *Fuel Tax Act, 1981*, being chapter 59, as amended by the Statutes of Ontario, 1985, chapter 23, section 1, is further amended by adding thereto the following clause:

(ha) “fuel in bulk” means fuel transported or transferred by any means other than in a fuel tank of a motor vehicle in which fuel for generating power in the motor vehicle is kept.

(2) Clause 1 (j) of the said Act is repealed and the following substituted therefor:

(j) “importer” means a person who brings or causes to be brought into Ontario fuel in bulk.

2. Subsection 4 (1) of the said Act, as re-enacted by the Statutes of Ontario, 1985, chapter 23, section 2, is repealed and the following substituted therefor:

(1) Every person who is a collector, importer, registered consumer or purchaser shall pay to the Treasurer a tax at the rate of,

Tax on clear  
fuel

(a) 10.9 cents per litre on each litre of clear fuel received or used by the person in Ontario to generate power in a motor vehicle other than railway equipment operated on rails in connection with a public transportation system; and

(b) 3.4 cents per litre on each litre of clear fuel received or used by the person in Ontario to propel railway equipment on rails where such equipment is operated in connection with and as part of a public transportation system.



**3. Subsections 11 (5) and (6) of the said Act are repealed and the following substituted therefor:**

Collection  
of tax

(5) Every importer shall, at the times and in the manner prescribed, collect from any wholesaler, retail dealer or purchaser, to whom the importer sells fuel, the tax collectable and payable under this Act and, for that purpose, every importer is an agent of the Minister for the collection of the tax imposed by this Act.

Transmission  
of tax

(6) Every importer who is a collector shall remit to the Treasurer, at the times and in the manner prescribed, the tax collectable and payable by the importer in respect of the fuel imported by that person.

Security

(7) At the time of entry into Ontario from outside Canada of clear fuel, every importer who is not a collector shall remit to the Treasurer,

- (a) an amount as security equal to the tax under subsection (5) that the importer would be obliged to collect on such clear fuel upon resale of the fuel in Ontario; and
- (b) the tax payable by the importer under subsection 4 (1).

Payment

(8) The remittance required by subsection (7) shall be made to a person authorized by the Minister for forwarding to the Treasurer by certified cheque or money order, payable to the Treasurer.

Returns

(9) Every importer shall, at the time and in the manner prescribed, deliver to the Minister or to a person authorized by the Minister a return with respect to the fuel imported by the importer.

**4. Subsections 19 (1) and (2) of the said Act are repealed and the following substituted therefor:**

Fuel in bulk

(1) Every person carrying fuel in bulk, and the operator of every motor vehicle carrying fuel in bulk, shall, when requested by the Minister or any person authorized by the Minister, give written evidence to the requester of any or all of the following information,

- (a) the name and address of any person from whom the fuel was obtained and the name and address of any

person to whom the fuel so obtained was delivered or is to be delivered;

- (b) the quantity of fuel delivered or to be delivered to any person;
- (c) the use or intended use, if known, to be made of any fuel delivered or to be delivered from such motor vehicle.

(2) The Minister or a person authorized by the Minister Detention  
may detain a motor vehicle carrying fuel in bulk where,

- (a) written evidence requested under subsection (1) is not given;
- (b) the information in the written evidence that is given is false; or
- (c) the importer fails to comply with subsection 11 (7) or fails to deliver any return in accordance with subsection 11 (9).

(2a) The Minister or a person authorized by the Minister Time  
may detain a motor vehicle under subsection (2) until the written evidence is given, the true information is given, the remittance required by subsection 11 (7) is delivered or the return in accordance with subsection 11 (9) is delivered, as the case requires.

(2b) During any detention under subsection (2), the Liability  
Crown, or any person acting in the administration and enforcement of this Act, is not liable for any damage to the motor vehicle, its contents, cargo or freight, or to its owner or driver or otherwise that may occur or be alleged to occur by reason of the detention of the motor vehicle pending compliance with subsection (1) and subsections 11 (7) and (9).

**5.—(1) Subject to subsection (2), this Act shall be deemed Commence-  
to have come into force on the 18th day of May, 1989. ment**

**(2) Sections 1, 3 and 4 shall come into force on a day to be Idem  
named by proclamation of the Lieutenant Governor. **

**6. The short title of this Act is the *Fuel Tax Amendment* Short title  
*Act, 1989.***









# Bill 21

*(Chapter 37  
Statutes of Ontario, 1989)*

## **An Act to amend the Fuel Tax Act, 1981**

**The Hon. B. Grandmaître**  
*Minister of Revenue*

<i>1st Reading</i>	May 17th, 1989
<i>2nd Reading</i>	June 26th, 1989
<i>3rd Reading</i>	July 13th, 1989
<i>Royal Assent</i>	July 13th, 1989





**Bill 21****1989****An Act to amend the Fuel Tax Act, 1981**

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

**1.—(1)** Section 1 of the *Fuel Tax Act, 1981*, being chapter 59, as amended by the Statutes of Ontario, 1985, chapter 23, section 1, is further amended by adding thereto the following clause:

(ha) “fuel in bulk” means fuel transported or transferred by any means other than in a fuel tank of a motor vehicle in which fuel for generating power in the motor vehicle is kept.

**(2)** Clause 1 (j) of the said Act is repealed and the following substituted therefor:

(j) “importer” means a person who brings or causes to be brought into Ontario fuel in bulk.

**2.** Subsection 4 (1) of the said Act, as re-enacted by the Statutes of Ontario, 1985, chapter 23, section 2, is repealed and the following substituted therefor:

(1) Every person who is a collector, importer, registered consumer or purchaser shall pay to the Treasurer a tax at the rate of,

Tax on clear  
fuel

(a) 10.9 cents per litre on each litre of clear fuel received or used by the person in Ontario to generate power in a motor vehicle other than railway equipment operated on rails in connection with a public transportation system; and

(b) 3.4 cents per litre on each litre of clear fuel received or used by the person in Ontario to propel railway equipment on rails where such equipment is operated in connection with and as part of a public transportation system.

**3. Subsections 11 (5) and (6) of the said Act are repealed and the following substituted therefor:**

Collection  
of tax

(5) Every importer shall, at the times and in the manner prescribed, collect from any wholesaler, retail dealer or purchaser, to whom the importer sells fuel, the tax collectable and payable under this Act and, for that purpose, every importer is an agent of the Minister for the collection of the tax imposed by this Act.

Transmission  
of tax

(6) Every importer who is a collector shall remit to the Treasurer, at the times and in the manner prescribed, the tax collectable and payable by the importer in respect of the fuel imported by that person.

Security

(7) At the time of entry into Ontario from outside Canada of clear fuel, every importer who is not a collector shall remit to the Treasurer,

(a) an amount as security equal to the tax under subsection (5) that the importer would be obliged to collect on such clear fuel upon resale of the fuel in Ontario; and

(b) the tax payable by the importer under subsection 4 (1).

Payment

(8) The remittance required by subsection (7) shall be made to a person authorized by the Minister for forwarding to the Treasurer by certified cheque or money order, payable to the Treasurer.

Returns

(9) Every importer shall, at the time and in the manner prescribed, deliver to the Minister or to a person authorized by the Minister a return with respect to the fuel imported by the importer.

**4. Subsections 19 (1) and (2) of the said Act are repealed and the following substituted therefor:**

Fuel in bulk

(1) Every person carrying fuel in bulk, and the operator of every motor vehicle carrying fuel in bulk, shall, when requested by the Minister or any person authorized by the Minister, give written evidence to the requester of any or all of the following information,

(a) the name and address of any person from whom the fuel was obtained and the name and address of any person to whom the fuel so obtained was delivered or is to be delivered;

- (b) the quantity of fuel delivered or to be delivered to any person;
- (c) the use or intended use, if known, to be made of any fuel delivered or to be delivered from such motor vehicle.

(2) The Minister or a person authorized by the Minister Detention  
may detain a motor vehicle carrying fuel in bulk where,

- (a) written evidence requested under subsection (1) is not given;
- (b) the information in the written evidence that is given is false; or
- (c) the importer fails to comply with subsection 11 (7) or fails to deliver any return in accordance with subsection 11 (9).

(2a) The Minister or a person authorized by the Minister Time  
may detain a motor vehicle under subsection (2) until the written evidence is given, the true information is given, the remittance required by subsection 11 (7) is delivered or the return in accordance with subsection 11 (9) is delivered, as the case requires.

(2b) During any detention under subsection (2), the Liability  
Crown, or any person acting in the administration and enforcement of this Act, is not liable for any damage to the motor vehicle, its contents, cargo or freight, or to its owner or driver or otherwise that may occur or be alleged to occur by reason of the detention of the motor vehicle pending compliance with subsection (1) and subsections 11 (7) and (9).

**5.—(1)** Subject to subsection (2), this Act shall be deemed Commence-  
to have come into force on the 18th day of May, 1989. ment

(2) Sections 1, 3 and 4 shall come into force on a day to be Idem  
named by proclamation of the Lieutenant Governor.

**6.** The short title of this Act is the *Fuel Tax Amendment* Short title  
*Act, 1989.*









# Bill 22

## **An Act to amend the Retail Sales Tax Act**

**The Hon. B. Grandmaître**  
*Minister of Revenue*

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*1st Reading*      May 17th, 1989  
*2nd Reading*  
*3rd Reading*  
*Royal Assent*

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## EXPLANATORY NOTES

**GENERAL.** The Bill implements the proposals contained in the Treasurer's Budget of May 17, 1989 and, in addition, contains administrative changes and clarifications.

**SECTION 1.** The amendments to paragraph 4 of section 1 of the Act provide that tax paid under the *Excise Act* (Canada) and under sections 2b and 2c of the Act, if applicable, are included in the fair value of tangible personal property for the purpose of determining the amount of 8 per cent retail sales tax.

**SECTION 2.** The amendment is consequential upon the enactment of sections 2b and 2c by sections 3 and 4 of the Bill.

**SECTIONS 3 and 4.** The enactment of sections 2b and 2c implement the Treasurer's Budget proposal of imposing an additional tax of \$5 on the purchase of new pneumatic tires and an additional tax ranging between \$600 and \$3,500 on the purchase of new fuel inefficient passenger cars having highway fuel consumption ratings of 9.5 litres or more per 100 kilometres.

**SECTION 5.—Subsection 1.** The amendment is consequential upon the enactment of sections 2b and 2c by sections 3 and 4 of the Bill as most of the current exemptions from 8 per cent retail sales tax will not apply to the tax on fuel inefficient cars.

**Subsection 2.** The amendment implements the Treasurer's Budget proposal of removing the tax exemption on the purchase of agricultural products by persons other than farmers.

**Subsection 3.** The amendment is consequential upon the enactment of the *National Transportation Act, 1987* (Canada) which replaced part of the *Aeronautics Act* (Canada).

**SECTION 6.** The amendment provides that any person, and not just the officers, directors or agents of a corporation, who is involved in the commission of an offence by the corporation may be prosecuted for the offence.

**SECTION 7.—Subsection 1.** The amendment is consequential upon the enactment of sections 2b and 2c by sections 3 and 4 of the Bill.

**Subsection 2.** The amendment implements the Treasurer's Budget proposal to extend the qualification period for the rebate of tax on motor vehicles converted to alternate fuels to 180 days where the purchaser has placed a written order for the conversion within ninety days of purchase.

**Subsections 3, 4, 5 and 6.** The amendments authorize the making of regulations providing for,

- (a) a rebate of tax payable under section 2c on the acquisition of a new fuel inefficient car where the car is converted to operate only on alternate fuel;
- (b) the computation, payment and collection of the tax on new tires and new fuel inefficient cars when the car is leased or rented, instead of owned, by a taxpayer; and
- (c) a rebate or partial rebate of tax paid on the purchase of motor vehicles to transport the physically disabled.

**Bill 22**

**1989**

## **An Act to amend the Retail Sales Tax Act**

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

**1.—(1)** Clause (ba) of paragraph 4 of section 1 of the *Retail Sales Tax Act*, being chapter 454 of the Revised Statutes of Ontario, 1980, as enacted by the Statutes of Ontario, 1989, chapter 15, section 1, is amended by inserting after “*Excise Tax Act (Canada)*” in the second line “or the *Excise Act (Canada)*”.

(2) Paragraph 4 of section 1 of the said Act, as amended by the Statutes of Ontario, 1982, chapter 36, section 1, 1983, chapter 27, section 1 and 1989, chapter 15, section 1, is further amended by striking out “and” at the end of clause (e), by adding “and” at the end of clause (f) and by adding thereto the following clause:

(g) any tax payable by the purchaser under section 2b or 2c,

. . . . .

**2.** Subsection 2 (14) of the said Act is amended by adding at the end thereof “together with any tax payable under section 2b or 2c”.

**3.** The said Act is amended by adding thereto the following section:

**2b.—(1)** Every purchaser of a new pneumatic tire, other than a purchaser referred to in subsection (2), shall pay to Her Majesty in right of Ontario a tax of \$5 in respect of the consumption or use of the tire.

Tax on new  
pneumatic  
tires

(2) The purchaser of a new pneumatic tire is exempt from the tax imposed by this section if,

Exemptions

- (a) the tire is acquired by the purchaser as part of tangible personal property acquired by the purchaser and the purchaser is exempt under subsection 5 (1) from the tax imposed by section 2 in respect of the purchase of the tangible personal property;
- (b) the tire is acquired by the purchaser in replacement of a tire described in clause (a); or
- (c) the tire is attached to or is designed for use on a bicycle, a tricycle or a toy, as defined by the Minister.

Definition of  
"sale" and  
"first sale"

(3) For the purposes of this section,

- (a) any sale of tangible personal property to which a tire is attached, or in connection with which the tire is supplied, is a sale of the tire;
- (b) the first sale of a pneumatic tire means the first sale of the tire that is,
  - (i) a retail sale,
  - (ii) a lease or rental for a term of at least seven days of tangible personal property to which the tire is attached, or in connection with which the tire is supplied, or
  - (iii) a transfer by a vendor, under the terms of a lease or rental agreement referred to in subclause (ii), of the tire in replacement of another tire;
- (c) a purchaser shall be considered to acquire a new pneumatic tire on the date on which,
  - (i) the purchaser acquires the pneumatic tire at the first sale of the tire, if the first sale is in Ontario,
  - (ii) the purchaser is required under subsection 2 (14) to pay the tax imposed by section 2 in respect of tangible personal property, other than a motor vehicle for which a permit is required under the *Highway Traffic Act*, to which the tire is attached or in connection with which the tire is used, if the first sale of the tire was outside of Ontario within the previous six months, or



- (iii) the purchaser is required under subsection 2 (14) to pay the tax imposed by section 2 in respect of a motor vehicle for which a permit is required under the *Highway Traffic Act*, to which the tire is attached or in connection with which the tire is used, if the motor vehicle is a current or prior year model, as defined by the Minister, and the first sale of the tire was outside of Ontario.

R.S.O. 1980,  
c. 198

**4. The said Act is further amended by adding thereto the following section:**

**2c.**—(1) Every purchaser of a new fuel inefficient car, other than a car which is a settler's effect referred to in paragraph 71 of subsection 5 (1) or tangible personal property referred to in paragraph 73 of subsection 5 (1), shall pay to Her Majesty in right of Ontario a tax in respect of the consumption or use of the car in the amount determined under subsection (3).

Tax on new  
fuel  
inefficient  
passenger  
cars

(2) For the purposes of this section,

Definition of  
"fuel  
inefficient  
car" and  
"new fuel  
inefficient  
car"

- (a) a fuel inefficient car is a passenger car, as defined by the Minister, having a highway fuel consumption rating, as determined under subsection (4), of 9.5 or more litres of gasoline or diesel fuel per 100 kilometres; and
- (b) a purchaser shall be considered to be the purchaser of a new fuel inefficient car where,
- (i) the first sale of the fuel inefficient car to a purchaser is in Ontario and is a retail sale of the car to the purchaser or a rental or lease to the purchaser of the fuel inefficient car for a term of at least one year,
- (ii) the first sales of the fuel inefficient car to purchasers are in Ontario on or after the 1st day of July, 1989, and are leases or rentals of the car for terms less than one year, and the purchaser acquires the car at such a sale within 180 days of the first such sale,
- (iii) the first sale of the fuel inefficient car to a purchaser is outside of Ontario on or after the 1st day of July, 1989, and, on the date the purchaser thereof is required under subsection 2 (14) to pay the tax imposed by section 2, the



car is a current or prior year model as defined by the Minister.

Amount of  
tax

(3) The amount of tax payable under subsection (1) by a purchaser of a new fuel inefficient car shall be the amount of tax appearing in the following table opposite the range of highway fuel consumption ratings which includes the highway fuel consumption rating of the car, except that the total amount of tax payable under this section by all purchasers referred to in subclause (2) (b)(ii) in respect of the same car shall not exceed the amount of tax otherwise determined under this subsection, and each such purchaser shall pay such portion of the total amount of tax which, in the Minister's opinion, reasonably represents the use of the car by that purchaser during the 180 days referred to in subclause (2) (b)(ii):

Highway Fuel Consumption Ratings

<i>Litres per 100 kilometres</i>	<i>Tax</i>
9.5 - 12.0	\$ 600
12.1 - 15.0	\$1,200
15.1 - 18.0	\$2,200
over 18.0	\$3,500

Highway fuel  
consumption  
rating

(4) For the purposes of this section, the highway fuel consumption rating of a car shall be deemed to be the least of,

- (a) the highway fuel consumption rating of the car provided by the manufacturer thereof, if such rating is available to the vendor and purchaser of the car at the date of sale of the car;
- (b) the highway fuel consumption rating most recently published by the Department of Transport (Canada) of cars matching the description of the car, if such a publication is available publicly at the date of sale of the car; or
- (c) 18.1 litres per 100 kilometres.

Rebates and  
assessments  
of additional  
tax

(5) Where the highway fuel consumption rating of a car is subsequently determined, in a manner prescribed by the Minister, to be less than or greater than the rating used in the determination of an amount of tax payable by the purchaser under this section, the Minister may,

- (a) where the subsequent rating is less, rebate with interest to the purchaser, upon receipt of an application therefor in the manner and within the time prescribed by the Minister, the amount of tax paid

by the purchaser under this section in excess of the amount of tax that would have been determined using the subsequent rating; or

- (b) where the subsequent rating is greater, assess or reassess the tax payable by the purchaser under this section together with interest from the date the car was acquired.

**5.—(1)** Subsection 5 (1) of the said Act is amended by striking out “this Act” in the third line and inserting in lieu thereof “section 2”.

(2) Paragraph 17 of subsection 5 (1) of the said Act is repealed.

(3) Paragraph 26 of subsection 5 (1) of the said Act is amended by inserting after “thereunder” in the sixth line “or the *National Transportation Act, 1987* (Canada) or regulations made thereunder,”.

**6.** Section 40 of the said Act is repealed and the following substituted therefor:

**40.** Any officer, director or agent of a corporation, or any other person, who directed, authorized, assented to, acquiesced in or participated in the commission of any act by the corporation which is an offence under this Act, or the omission of any act the omission of which is an offence under this Act, is guilty of an offence and on conviction is liable to the punishment provided for the offence whether or not the corporation has been prosecuted or convicted of any offence under this Act.

Officers, etc.,  
of  
corporation

**7.—(1)** Clause 45 (3) (i) of the said Act, as re-enacted by the Statutes of Ontario, 1986, chapter 66, section 12, is amended by inserting after “tax” in the first line “imposed by section 2”.

(2) Subclauses (ii) and (iii) of clause 45 (3) (i) of the said Act, as enacted by the Statutes of Ontario, 1986, chapter 66, section 12, are repealed and the following substituted therefor:

- (ii) a vehicle that is powered by a gasoline or diesel engine and for which a permit is required under the *Highway Traffic Act*, and any tangible personal property sold as a conversion kit, including the labour provided to install the conversion kit, where the purchaser enters into a written contract for the conversion of

R.S.O. 1980,  
c. 198

the vehicle within ninety days of the date of sale, and the vehicle is in fact converted to permit it to operate in a manner described in sub-subclause (i)(A) or (B) within 180 days of the date of sale of the vehicle, or

- (iii) tangible personal property sold as a conversion kit to be used to convert any vehicle powered by a gasoline or diesel engine into a vehicle that operates in the manner described in sub-subclause (i)(A) or (B), including the labour to install the kit, where the vehicle is not so converted within 180 days of the date of sale of the vehicle,

**(3) Subsection 45 (3) of the said Act, as amended by the Statutes of Ontario, 1982, chapter 36, section 10, 1983, chapter 27, section 16 and 1986, chapter 66, section 12, is further amended by adding thereto the following clause:**

- (k) providing for the rebate of any tax paid by a purchaser under section 2c, where the purchaser is entitled to a rebate referred to in subclause (i)(ii), in connection with the conversion of the vehicle to permit it to operate in the manner described in sub-subclause (i)(i)(A).

**(4) The said subsection 45 (3) is further amended by adding thereto the following clause:**

- (l) providing for the computation, payment and collection of tax imposed by section 2b, in respect of the acquisition of tangible personal property at a sale that is a lease or rental of the tangible personal property, in a manner different from the computation, payment and collection of tax described in subsection 2 (6).

**(5) The said subsection 45 (3) is further amended by adding thereto the following clause:**

- (m) providing for the computation, payment and collection of tax imposed by section 2c, in respect of the acquisition of tangible personal property at a sale that is a lease or rental of the tangible personal property, in a manner different from the computation, payment and collection of tax described in subsection 2 (6).

(6) The said subsection 45 (3) is further amended by adding thereto the following clause:

- (n) providing for a rebate or a partial rebate of tax paid on motor vehicles purchased to transport physically disabled persons.

**8.—**(1) Except as provided in subsections (2) to (5), this Act comes into force on the day it receives Royal Assent. Commence-  
ment

(2) Subsection 1 (1) shall be deemed to have come into force on the 2nd day of May, 1988. Idem

(3) Subsection 7 (2) comes into force on the 18th day of May, 1989 and applies in respect of motor vehicles purchased on, before or after that date. Idem

(4) Subsection 1 (2), sections 2, 3 and 5 and subsections 7 (1), (4) and (6) come into force on the 1st day of June, 1989. Idem

(5) Section 4 and subsections 7 (3) and (5) come into force on the 1st day of July, 1989. Idem

**9.** The short title of this Act is the *Retail Sales Tax Amendment Act, 1989*. Short title









# Bill 22

## An Act to amend the Retail Sales Tax Act

The Hon. B. Grandmaître  
*Minister of Revenue*

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<i>1st Reading</i>	May 17th, 1989
<i>2nd Reading</i>	June 26th, 1989
<i>3rd Reading</i>	
<i>Royal Assent</i>	

*(Reprinted as amended by the Committee of the Whole House)*

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## EXPLANATORY NOTES

**GENERAL.** The Bill implements the proposals contained in the Treasurer's Budget of May 17, 1989 and, in addition, contains administrative changes and clarifications.

**SECTION 1.** The amendments to paragraph 4 of section 1 of the Act provide that tax paid under the *Excise Act* (Canada) and under sections 2b and 2c of the Act, if applicable, are included in the fair value of tangible personal property for the purpose of determining the amount of 8 per cent retail sales tax.

**SECTION 2.** The amendment is consequential upon the enactment of sections 2b and 2c by sections 3 and 4 of the Bill.

**SECTIONS 3 and 4.** The enactment of sections 2b and 2c implement the Treasurer's Budget proposal of imposing an additional tax of \$5 on the purchase of new pneumatic tires and an additional tax ranging between \$600 and \$3,500 on the purchase of new fuel inefficient passenger cars.

**SECTION 5.—Subsection 1.** The amendment is consequential upon the enactment of sections 2b and 2c by sections 3 and 4 of the Bill as most of the current exemptions from 8 per cent retail sales tax will not apply to the tax on fuel inefficient cars.

**Subsection 2.** The amendment implements the Treasurer's Budget proposal of removing the tax exemption on the purchase of agricultural products by persons other than farmers.

**Subsection 3.** The amendment is consequential upon the enactment of the *National Transportation Act, 1987* (Canada) which replaced part of the *Aeronautics Act* (Canada).

**SECTION 6.** The amendment provides that any person, and not just the officers, directors or agents of a corporation, who is involved in the commission of an offence by the corporation may be prosecuted for the offence.

**SECTION 7.—Subsection 1.** The amendment is consequential upon the enactment of sections 2b and 2c by sections 3 and 4 of the Bill.

**Subsection 2.** The amendment implements the Treasurer's Budget proposal to extend the qualification period for the rebate of tax on motor vehicles converted to alternate fuels to 180 days where the purchaser has placed a written order for the conversion within ninety days of purchase.

**Subsections 3, 4, 5 and 6.** The amendments authorize the making of regulations providing for,

- (a) a rebate of tax payable under section 2c on the acquisition of a new fuel inefficient car where the car is converted to operate only on alternate fuel;
- (b) the computation, payment and collection of the tax on new tires and new fuel inefficient cars when the car is leased or rented, instead of owned, by a taxpayer; and
- (c) a rebate or partial rebate of tax paid on the purchase of motor vehicles to transport the physically disabled.

## Bill 22

1989

## An Act to amend the Retail Sales Tax Act

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

**1.**—(1) Clause (ba) of paragraph 4 of section 1 of the *Retail Sales Tax Act*, being chapter 454 of the Revised Statutes of Ontario, 1980, as enacted by the Statutes of Ontario, 1989, chapter 15, section 1, is amended by inserting after “*Excise Tax Act (Canada)*” in the second line “or the *Excise Act (Canada)*”.

(2) Paragraph 4 of section 1 of the said Act, as amended by the Statutes of Ontario, 1982, chapter 36, section 1, 1983, chapter 27, section 1 and 1989, chapter 15, section 1, is further amended by striking out “and” at the end of clause (e), by adding “and” at the end of clause (f) and by adding thereto the following clause:

(g) any tax payable by the purchaser under section 2b or 2c,

. . . . .

**2.** Subsection 2 (14) of the said Act is amended by adding at the end thereof “together with any tax payable under section 2b or 2c”.

**3.** The said Act is amended by adding thereto the following section:

**2b.**—(1) Every purchaser of a new pneumatic tire, other than a purchaser referred to in subsection (2), shall pay to Her Majesty in right of Ontario a tax of \$5 in respect of the consumption or use of the tire.

Tax on new  
pneumatic  
tires

(2) The purchaser of a new pneumatic tire is exempt from the tax imposed by this section if,

Exemptions

- (a) the tire is acquired by the purchaser as part of tangible personal property acquired by the purchaser and the purchaser is exempt under subsection 5 (1) from the tax imposed by section 2 in respect of the purchase of the tangible personal property;
- (b) the tire is acquired by the purchaser in replacement of a tire described in clause (a); or
- (c) the tire is attached to or is designed for use on any class or classes of tangible personal property prescribed by the Minister.

Definition of  
"sale" and  
"first sale"

(3) For the purposes of this section,

- (a) any sale of tangible personal property to which a tire is attached, or in connection with which the tire is supplied, is a sale of the tire;
- (b) the first sale of a pneumatic tire means the first sale of the tire that is,
  - (i) a retail sale,
  - (ii) a lease or rental for a term of at least seven days of tangible personal property to which the tire is attached, or in connection with which the tire is supplied, or
  - (iii) a transfer by a vendor, under the terms of a lease or rental agreement referred to in sub-clause (ii), of the tire in replacement of another tire;
- (c) a purchaser shall be considered to acquire a new pneumatic tire on the date on which,
  - (i) the purchaser acquires the pneumatic tire at the first sale of the tire, if the first sale is in Ontario,
  - (ii) the purchaser is required under subsection 2 (14) to pay the tax imposed by section 2 in respect of tangible personal property, other than a motor vehicle for which a permit is required under the *Highway Traffic Act*, to which the tire is attached or in connection with which the tire is used, if the first sale of the tire was outside of Ontario within the previous six months, or

- (iii) the purchaser is required under subsection 2 (14) to pay the tax imposed by section 2 in respect of a motor vehicle for which a permit is required under the *Highway Traffic Act*, to which the tire is attached or in connection with which the tire is used, if the motor vehicle is a current or prior year model, as defined by the Minister, and the first sale of the tire was outside of Ontario.

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c. 198

**4. The said Act is further amended by adding thereto the following section:**

**2c.**—(1) Every purchaser of a new fuel inefficient car, other than a car which is a settler's effect referred to in paragraph 71 of subsection 5 (1) or tangible personal property referred to in paragraph 73 of subsection 5 (1), shall pay to Her Majesty in right of Ontario a tax in respect of the consumption or use of the car in the amount determined under subsection (3).

Tax on new  
fuel  
inefficient  
passenger  
cars

(2) For the purposes of this section,

Definition of  
"fuel  
inefficient  
car" and  
"new fuel  
inefficient  
car"

- (a) a fuel inefficient car is a passenger car, as defined by the Minister, having a highway fuel consumption rating, as determined under subsection (4), of 9.5 or more litres of gasoline or diesel fuel per 100 kilometres; and
- (b) a purchaser shall be considered to be the purchaser of a new fuel inefficient car where,
- (i) the first sale of the fuel inefficient car to a purchaser is in Ontario and is a retail sale of the car to the purchaser or a rental or lease to the purchaser of the fuel inefficient car for a term of at least one year,
- (ii) the first sales of the fuel inefficient car to purchasers are in Ontario on or after the 1st day of July, 1989, and are leases or rentals of the car for terms less than one year, and the purchaser acquires the car at such a sale within 180 days of the first such sale,
- (iii) the first sale of the fuel inefficient car to a purchaser is outside of Ontario on or after the 1st day of July, 1989, and, on the date the purchaser thereof is required under subsection 2 (14) to pay the tax imposed by section 2, the



car is a current or prior year model as defined by the Minister.

Amount of  
tax

(3) The amount of tax payable under subsection (1) by a purchaser of a new fuel inefficient car shall be the amount of tax appearing in the following table opposite the range of highway fuel consumption ratings which includes the highway fuel consumption rating of the car, except that the total amount of tax payable under this section by all purchasers referred to in subclause (2) (b)(ii) in respect of the same car shall not exceed the amount of tax otherwise determined under this subsection, and each such purchaser shall pay such portion of the total amount of tax which, in the Minister's opinion, reasonably represents the use of the car by that purchaser during the 180 days referred to in subclause (2) (b)(ii):

#### Highway Fuel Consumption Ratings

<i>Litres per 100 kilometres</i>	<i>Tax</i>
9.5 - 12.0	\$ 600
12.1 - 15.0	\$1,200
15.1 - 18.0	\$2,200
over 18.0	\$3,500

Highway fuel  
consumption  
rating

(4) For the purposes of this section, the highway fuel consumption rating of a passenger car shall be deemed to be the lesser of,

- (a) the highway fuel consumption rating most recently published by the Department of Transport (Canada) of cars matching the description of the passenger car, if such a publication is available publicly at the date of sale of the passenger car; or
- (b) 18.1 litres per 100 kilometres.

Rebates and  
assessments  
of additional  
tax

(5) Where the highway fuel consumption rating of a car is subsequently determined, in a manner prescribed by the Minister, to be less than or greater than the rating used in the determination of an amount of tax payable by the purchaser under this section, the Minister may,

- (a) where the subsequent rating is less, rebate with interest to the purchaser, upon receipt of an application therefor in the manner and within the time prescribed by the Minister, the amount of tax paid by the purchaser under this section in excess of the amount of tax that would have been determined using the subsequent rating; or

- (b) where the subsequent rating is greater, assess or reassess the tax payable by the purchaser under this section together with interest from the date the car was acquired.

5.—(1) Subsection 5 (1) of the said Act is amended by striking out “this Act” in the third line and inserting in lieu thereof “section 2”.

(2) Paragraph 17 of subsection 5 (1) of the said Act is repealed.

(3) Paragraph 26 of subsection 5 (1) of the said Act is amended by inserting after “thereunder” in the sixth line “or the *National Transportation Act, 1987* (Canada) or regulations made thereunder,”.

6. Section 40 of the said Act is repealed and the following substituted therefor:

40. Any officer, director or agent of a corporation, or any other person, who directed, authorized, assented to, acquiesced in or participated in the commission of any act by the corporation which is an offence under this Act, or the omission of any act the omission of which is an offence under this Act, is guilty of an offence and on conviction is liable to the punishment provided for the offence whether or not the corporation has been prosecuted or convicted of any offence under this Act.

Officers, etc.,  
of  
corporation

7.—(1) Clause 45 (3) (i) of the said Act, as re-enacted by the Statutes of Ontario, 1986, chapter 66, section 12, is amended by inserting after “tax” in the first line “imposed by section 2”.

(2) Subclauses (ii) and (iii) of clause 45 (3) (i) of the said Act, as enacted by the Statutes of Ontario, 1986, chapter 66, section 12, are repealed and the following substituted therefor:

- (ii) a vehicle that is powered by a gasoline or diesel engine and for which a permit is required under the *Highway Traffic Act*, and any tangible personal property sold as a conversion kit, including the labour provided to install the conversion kit, where the purchaser enters into a written contract for the conversion of the vehicle within ninety days of the date of sale, and the vehicle is in fact converted to permit it to operate in a manner described in

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c. 198

sub-subclause (i)(A) or (B) within 180 days of the date of sale of the vehicle, or

- (iii) tangible personal property sold as a conversion kit to be used to convert any vehicle powered by a gasoline or diesel engine into a vehicle that operates in the manner described in sub-subclause (i)(A) or (B), including the labour to install the kit, where the vehicle is not so converted within 180 days of the date of sale of the vehicle,

. . . . .

**(3) Subsection 45 (3) of the said Act, as amended by the Statutes of Ontario, 1982, chapter 36, section 10, 1983, chapter 27, section 16 and 1986, chapter 66, section 12, is further amended by adding thereto the following clause:**

- (k) providing for the rebate of any tax paid by a purchaser under section 2c, where the purchaser is entitled to a rebate referred to in subclause (i)(ii), in connection with the conversion of the vehicle to permit it to operate in the manner described in sub-subclause (i)(i)(A).

**(4) The said subsection 45 (3) is further amended by adding thereto the following clause:**

- (l) providing for the computation, payment and collection of tax imposed by section 2b, in respect of the acquisition of tangible personal property at a sale that is a lease or rental of the tangible personal property, in a manner different from the computation, payment and collection of tax described in subsection 2 (6).

**(5) The said subsection 45 (3) is further amended by adding thereto the following clause:**

- (m) providing for the computation, payment and collection of tax imposed by section 2c, in respect of the acquisition of tangible personal property at a sale that is a lease or rental of the tangible personal property, in a manner different from the computation, payment and collection of tax described in subsection 2 (6).

**(6) The said subsection 45 (3) is further amended by adding thereto the following clause:**

- (n) providing for a rebate or a partial rebate of tax paid on motor vehicles purchased to transport physically disabled persons.

**8.—**(1) Except as provided in subsections (2) to (5), this Act comes into force on the day it receives Royal Assent. Commence-  
ment

(2) Subsection 1 (1) shall be deemed to have come into force on the 2nd day of May, 1988. Idem

(3) Subsection 7 (2) comes into force on the 18th day of May, 1989 and applies in respect of motor vehicles purchased on, before or after that date. Idem

(4) Subsection 1 (2), sections 2, 3 and 5 and subsections 7 (1), (4) and (6) come into force on the 1st day of June, 1989. Idem

(5) Section 4 and subsections 7 (3) and (5) come into force on the 1st day of July, 1989. Idem

**9.** The short title of this Act is the *Retail Sales Tax Amendment Act, 1989*. Short title









# Bill 22

*(Chapter 38  
Statutes of Ontario, 1989)*

## **An Act to amend the Retail Sales Tax Act**

**The Hon. B. Grandmaître**  
*Minister of Revenue*

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<i>1st Reading</i>	May 17th, 1989
<i>2nd Reading</i>	June 26th, 1989
<i>3rd Reading</i>	July 13th, 1989
<i>Royal Assent</i>	July 13th, 1989

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# Bill 22

1989

## An Act to amend the Retail Sales Tax Act

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

**1.—(1)** Clause (ba) of paragraph 4 of section 1 of the *Retail Sales Tax Act*, being chapter 454 of the Revised Statutes of Ontario, 1980, as enacted by the Statutes of Ontario, 1989, chapter 15, section 1, is amended by inserting after “*Excise Tax Act (Canada)*” in the second line “or the *Excise Act (Canada)*”.

(2) Paragraph 4 of section 1 of the said Act, as amended by the Statutes of Ontario, 1982, chapter 36, section 1, 1983, chapter 27, section 1 and 1989, chapter 15, section 1, is further amended by striking out “and” at the end of clause (e), by adding “and” at the end of clause (f) and by adding thereto the following clause:

(g) any tax payable by the purchaser under section 2b or 2c,

. . . . .

**2.** Subsection 2 (14) of the said Act is amended by adding at the end thereof “together with any tax payable under section 2b or 2c”.

**3.** The said Act is amended by adding thereto the following section:

**2b.—(1)** Every purchaser of a new pneumatic tire, other than a purchaser referred to in subsection (2), shall pay to Her Majesty in right of Ontario a tax of \$5 in respect of the consumption or use of the tire.

Tax on new  
pneumatic  
tires

(2) The purchaser of a new pneumatic tire is exempt from the tax imposed by this section if,

Exemptions

- (a) the tire is acquired by the purchaser as part of tangible personal property acquired by the purchaser and the purchaser is exempt under subsection 5 (1) from the tax imposed by section 2 in respect of the purchase of the tangible personal property;
- (b) the tire is acquired by the purchaser in replacement of a tire described in clause (a); or
- (c) the tire is attached to or is designed for use on any class or classes of tangible personal property prescribed by the Minister.

Definition of  
"sale" and  
"first sale"

(3) For the purposes of this section,

- (a) any sale of tangible personal property to which a tire is attached, or in connection with which the tire is supplied, is a sale of the tire;
- (b) the first sale of a pneumatic tire means the first sale of the tire that is,
  - (i) a retail sale,
  - (ii) a lease or rental for a term of at least seven days of tangible personal property to which the tire is attached, or in connection with which the tire is supplied, or
  - (iii) a transfer by a vendor, under the terms of a lease or rental agreement referred to in sub-clause (ii), of the tire in replacement of another tire;
- (c) a purchaser shall be considered to acquire a new pneumatic tire on the date on which,
  - (i) the purchaser acquires the pneumatic tire at the first sale of the tire, if the first sale is in Ontario,
  - (ii) the purchaser is required under subsection 2 (14) to pay the tax imposed by section 2 in respect of tangible personal property, other than a motor vehicle for which a permit is required under the *Highway Traffic Act*, to which the tire is attached or in connection with which the tire is used, if the first sale of the tire was outside of Ontario within the previous six months, or

- (iii) the purchaser is required under subsection 2 (14) to pay the tax imposed by section 2 in respect of a motor vehicle for which a permit is required under the *Highway Traffic Act*, to which the tire is attached or in connection with which the tire is used, if the motor vehicle is a current or prior year model, as defined by the Minister, and the first sale of the tire was outside of Ontario.

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c. 198

**4. The said Act is further amended by adding thereto the following section:**

**2c.—**(1) Every purchaser of a new fuel inefficient car, other than a car which is a settler's effect referred to in paragraph 71 of subsection 5 (1) or tangible personal property referred to in paragraph 73 of subsection 5 (1), shall pay to Her Majesty in right of Ontario a tax in respect of the consumption or use of the car in the amount determined under subsection (3).

Tax on new  
fuel  
inefficient  
passenger  
cars

(2) For the purposes of this section,

Definition of  
"fuel  
inefficient  
car" and  
"new fuel  
inefficient  
car"

- (a) a fuel inefficient car is a passenger car, as defined by the Minister, having a highway fuel consumption rating, as determined under subsection (4), of 9.5 or more litres of gasoline or diesel fuel per 100 kilometres; and

- (b) a purchaser shall be considered to be the purchaser of a new fuel inefficient car where,

- (i) the first sale of the fuel inefficient car to a purchaser is in Ontario and is a retail sale of the car to the purchaser or a rental or lease to the purchaser of the fuel inefficient car for a term of at least one year,
- (ii) the first sales of the fuel inefficient car to purchasers are in Ontario on or after the 1st day of July, 1989, and are leases or rentals of the car for terms less than one year, and the purchaser acquires the car at such a sale within 180 days of the first such sale,
- (iii) the first sale of the fuel inefficient car to a purchaser is outside of Ontario on or after the 1st day of July, 1989, and, on the date the purchaser thereof is required under subsection 2 (14) to pay the tax imposed by section 2, the



car is a current or prior year model as defined by the Minister.

Amount of  
tax

(3) The amount of tax payable under subsection (1) by a purchaser of a new fuel inefficient car shall be the amount of tax appearing in the following table opposite the range of highway fuel consumption ratings which includes the highway fuel consumption rating of the car, except that the total amount of tax payable under this section by all purchasers referred to in subclause (2) (b)(ii) in respect of the same car shall not exceed the amount of tax otherwise determined under this subsection, and each such purchaser shall pay such portion of the total amount of tax which, in the Minister's opinion, reasonably represents the use of the car by that purchaser during the 180 days referred to in subclause (2) (b)(ii):

#### Highway Fuel Consumption Ratings

<i>Litres per 100 kilometres</i>	<i>Tax</i>
9.5 - 12.0	\$ 600
12.1 - 15.0	\$1,200
15.1 - 18.0	\$2,200
over 18.0	\$3,500

Highway fuel  
consumption  
rating

(4) For the purposes of this section, the highway fuel consumption rating of a passenger car shall be deemed to be the lesser of,

- (a) the highway fuel consumption rating most recently published by the Department of Transport (Canada) of cars matching the description of the passenger car, if such a publication is available publicly at the date of sale of the passenger car; or
- (b) 18.1 litres per 100 kilometres.

Rebates and  
assessments  
of additional  
tax

(5) Where the highway fuel consumption rating of a car is subsequently determined, in a manner prescribed by the Minister, to be less than or greater than the rating used in the determination of an amount of tax payable by the purchaser under this section, the Minister may,

- (a) where the subsequent rating is less, rebate with interest to the purchaser, upon receipt of an application therefor in the manner and within the time prescribed by the Minister, the amount of tax paid by the purchaser under this section in excess of the amount of tax that would have been determined using the subsequent rating; or

- (b) where the subsequent rating is greater, assess or reassess the tax payable by the purchaser under this section together with interest from the date the car was acquired.

**5.—(1)** Subsection 5 (1) of the said Act is amended by striking out “this Act” in the third line and inserting in lieu thereof “section 2”.

(2) Paragraph 17 of subsection 5 (1) of the said Act is repealed.

(3) Paragraph 26 of subsection 5 (1) of the said Act is amended by inserting after “thereunder” in the sixth line “or the *National Transportation Act, 1987 (Canada)* or regulations made thereunder,”.

**6.** Section 40 of the said Act is repealed and the following substituted therefor:

**40.** Any officer, director or agent of a corporation, or any other person, who directed, authorized, assented to, acquiesced in or participated in the commission of any act by the corporation which is an offence under this Act, or the omission of any act the omission of which is an offence under this Act, is guilty of an offence and on conviction is liable to the punishment provided for the offence whether or not the corporation has been prosecuted or convicted of any offence under this Act.

Officers, etc.,  
of  
corporation

**7.—(1)** Clause 45 (3) (i) of the said Act, as re-enacted by the Statutes of Ontario, 1986, chapter 66, section 12, is amended by inserting after “tax” in the first line “imposed by section 2”.

(2) Subclauses (ii) and (iii) of clause 45 (3) (i) of the said Act, as enacted by the Statutes of Ontario, 1986, chapter 66, section 12, are repealed and the following substituted therefor:

- (ii) a vehicle that is powered by a gasoline or diesel engine and for which a permit is required under the *Highway Traffic Act*, and any tangible personal property sold as a conversion kit, including the labour provided to install the conversion kit, where the purchaser enters into a written contract for the conversion of the vehicle within ninety days of the date of sale, and the vehicle is in fact converted to permit it to operate in a manner described in

R.S.O. 1980,  
c. 198

sub-subclause (i)(A) or (B) within 180 days of the date of sale of the vehicle, or

- (iii) tangible personal property sold as a conversion kit to be used to convert any vehicle powered by a gasoline or diesel engine into a vehicle that operates in the manner described in sub-subclause (i)(A) or (B), including the labour to install the kit, where the vehicle is not so converted within 180 days of the date of sale of the vehicle,

. . . . .

**(3) Subsection 45 (3) of the said Act, as amended by the Statutes of Ontario, 1982, chapter 36, section 10, 1983, chapter 27, section 16 and 1986, chapter 66, section 12, is further amended by adding thereto the following clause:**

- (k) providing for the rebate of any tax paid by a purchaser under section 2c, where the purchaser is entitled to a rebate referred to in subclause (i)(ii), in connection with the conversion of the vehicle to permit it to operate in the manner described in sub-subclause (i)(i)(A).

**(4) The said subsection 45 (3) is further amended by adding thereto the following clause:**

- (l) providing for the computation, payment and collection of tax imposed by section 2b, in respect of the acquisition of tangible personal property at a sale that is a lease or rental of the tangible personal property, in a manner different from the computation, payment and collection of tax described in subsection 2 (6).

**(5) The said subsection 45 (3) is further amended by adding thereto the following clause:**

- (m) providing for the computation, payment and collection of tax imposed by section 2c, in respect of the acquisition of tangible personal property at a sale that is a lease or rental of the tangible personal property, in a manner different from the computation, payment and collection of tax described in subsection 2 (6).

**(6) The said subsection 45 (3) is further amended by adding thereto the following clause:**

- (n) providing for a rebate or a partial rebate of tax paid on motor vehicles purchased to transport physically disabled persons.

**8.—(1)** Except as provided in subsections (2) to (5), this Act comes into force on the day it receives Royal Assent. Commence-  
ment

(2) Subsection 1 (1) shall be deemed to have come into force on the 2nd day of May, 1988. Idem

(3) Subsection 7 (2) shall be deemed to have come into force on the 18th day of May, 1989 and applies in respect of motor vehicles purchased on, before or after that date. Idem

(4) Subsection 1 (2), sections 2, 3 and 5 and subsections 7 (1), (4) and (6) shall be deemed to have come into force on the 1st day of June, 1989. Idem

(5) Section 4 and subsections 7 (3) and (5) shall be deemed to have come into force on the 1st day of July, 1989. Idem

**9.** The short title of this Act is the *Retail Sales Tax Amendment Act, 1989*. Short title









# Bill 23

## **An Act to amend the Land Transfer Tax Act**

**The Hon. B. Grandmaître**  
*Minister of Revenue*

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*1st Reading*      May 17th, 1989  
*2nd Reading*  
*3rd Reading*  
*Royal Assent*

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## EXPLANATORY NOTES

**GENERAL.** The Bill implements the proposals contained in the Treasurer's Budget of May 17, 1989 and makes administrative amendments and clarifications.

**SECTION 1.** The amendments are consequential upon the enactment of section 7a of the Act by section 4 of the Bill.

**SECTION 2.** The amendments implement the Treasurer's Budget proposal of extending the additional rate of one-half of 1 per cent to all conveyances of land where the value of the consideration for the conveyance exceeds \$250,000.

The amendments implement the Treasurer's Budget proposal to increase the rates of land transfer tax as follows:

- (a) where the value of the consideration for a conveyance of any land, not just single family residential land, exceeds \$250,000, the tax on the amount in excess of \$250,000 will be 1.5 per cent; and
- (b) where the value of the consideration for a conveyance of land that contains at least one and not more than two single family residences exceeds \$400,000, the tax on the amount in excess of \$400,000 will be 2 per cent.

**SECTION 3.** The re-enactment of subsection 4 (1) of the Act is consequential upon the increase in the tax rates.

**SECTION 4.** The enactment of section 7a of the Act will implement the Treasurer's Budget proposal of providing for a full or partial refund of land transfer tax paid on the acquisition of a first home by a qualifying planholder of an Ontario home ownership savings plan. Where the purchase price of the home does not exceed \$150,000, the full amount of the land transfer tax applicable to the home will be refunded. Where the purchase price is between \$150,000 and \$200,000, a partial refund at a declining rate will be available.

**SECTION 5.** The amendment provides that the Minister may assess tax later than the general four-year limitation period where the taxpayer has failed to deliver a return required by the Act and accordingly has failed to report to the Minister that a taxable disposition has occurred.

**SECTION 6.—Subsection 1.** The amendments permit the Minister to approve different versions of any prescribed form, both to ensure uniformity and to ensure that any form required by the Act to be attached to a registered conveyance will be in a form acceptable for registration by the Land Titles Offices and Registry Offices.

**Subsection 2.** The amendments clarify the regulation-making authority of the Lieutenant Governor in Council and further provide that the method of calculating the cost of construction or acquisition of an eligible home may be prescribed for the purposes of determining the amount of any tax refund under section 7a of the Act, as enacted by section 4 of the Bill.

Bill 23

1989

## An Act to amend the Land Transfer Tax Act

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. Subsection 1 (1) of the *Land Transfer Tax Act*, being chapter 231 of the Revised Statutes of Ontario, 1980, as amended by the Statutes of Ontario, 1983, chapter 20, section 1 and 1985, chapter 21, section 1, is further amended by adding thereto the following clauses:

(gb) "Ontario home ownership savings plan" means an Ontario home ownership savings plan under the *Ontario Home Ownership Savings Plan Act, 1988*; 1988, c. 35

(gc) "Ontario home ownership savings plan tax credit", of an individual for a taxation year, means the deduction allowed to the individual under subsection 7 (2a) of the *Income Tax Act* for the taxation year of the individual as determined under that Act; R.S.O. 1980, c. 213

. . . . .

(ia) "registration", of a conveyance, means registration under the *Land Titles Act* or the *Registry Act*, and "registered" has a corresponding meaning. R.S.O. 1980, cc. 230, 445

2.—(1) Clause 2 (1) (c) of the said Act, as enacted by the Statutes of Ontario, 1985, chapter 21, section 2, is repealed and the following substituted therefor:

(c) at the rate of,

(i) one-half of 1 per cent of the value of the consideration for the conveyance up to and including \$55,000,

(ii) 1 per cent of the value of the consideration which exceeds \$55,000 up to and including \$250,000, and

(iii) 1.5 per cent of the value of the consideration which exceeds \$250,000; and

**(2) Clause 2 (1) (d) of the said Act, as enacted by the Statutes of Ontario, 1985, chapter 21, section 2, is repealed and the following substituted therefor:**

(d) where the value of the consideration for the conveyance exceeds \$400,000 and the conveyance is a conveyance of land that contains at least one and not more than two single family residences, an additional tax of one-half of 1 per cent of the amount by which the value of the consideration exceeds \$400,000.

**(3) Subsection 2 (1a) of the said Act, as enacted by the Statutes of Ontario, 1985, chapter 21, section 2, is repealed and the following substituted therefor:**

Apportion-  
ment of  
consideration

(1a) Where, in respect of a conveyance of land,

(a) subsection (2) does not apply;

(b) the value of the consideration for the conveyance exceeds \$400,000; and

(c) a part of the land being conveyed is used for a purpose other than residential purposes,

the Minister may, to the extent that he considers it practicable, determine what amount of the value of the consideration for the conveyance is reasonably attributable to the land used in connection with a single family residence, and the person tendering the conveyance for registration is, despite subsection (1), liable to the additional tax of one-half of 1 per cent only upon the amount by which the value of the consideration determined by the Minister to be attributable to land used in connection with a single family residence exceeds \$400,000.

**(4) Subsection 2 (6) of the said Act, as re-enacted by the Statutes of Ontario, 1985, chapter 21, section 2, is repealed and the following substituted therefor:**

(6) Where only a part of the land being conveyed is unrestricted land and the conveyance is to or in trust for any non-resident person, the Minister may, to the extent the Minister considers it practicable, determine what amount of the value of the consideration for the conveyance is reasonably attributable to the unrestricted land being conveyed, and the person tendering the conveyance for registration is, despite subsection (1) or (2), liable to a tax,

Apportionment of consideration

(a) with respect to the amount of the value of the consideration determined by the Minister to be reasonably attributable to the unrestricted land being conveyed, computed at the rate of,

(i) 1 per cent of the amount determined by the Minister which does not exceed \$250,000,

(ii) 1.5 per cent of the amount determined by the Minister which exceeds \$250,000, and

(iii) any tax required to be calculated under clause (1) (d) or subsection (1a), whichever is the lesser, on the amount determined by the Minister; and

(b) computed at the rate of 20 per cent of the amount of the value of the consideration for the conveyance that is determined by the Minister not to be reasonably attributable to the unrestricted land being conveyed.

**3. Subsection 4 (1) of the said Act, as re-enacted by the Statutes of Ontario, 1985, chapter 21, section 3, is repealed and the following substituted therefor:**

(1) There shall be filed with the collector and attached by the collector to the conveyance to which it relates an affidavit in the prescribed form setting out,

Contents of affidavit as to consideration

(a) the true value of the consideration for the conveyance;

(b) the true amount in cash and the value of any property or security included in the value of the consideration;

(c) the amount or value of any lien or encumbrance subject to which the conveyance was made;



- (d) whether the transferee to whom the land is being conveyed is a non-resident person or the trustee of a non-resident person;
- (e) where the value of the conveyance exceeds \$400,000, whether the land being conveyed contains at least one and not more than two single family residences; and
- (f) any other information prescribed by the Minister that in the Minister's opinion is required for the purpose of administering and enforcing this Act.

**4. The said Act is amended by adding thereto the following section:**

Refund on  
purchase of  
eligible home  
under  
1988, c. 35

**7a.—(1) Where, in respect of a conveyance of land,**

- (a) subsection 2 (2) does not apply;
- (b) the tax payable under subsection 2 (1) was paid with respect to the conveyance and the conveyance was registered after the 17th day of May, 1989;
- (c) a transferee named in the conveyance was a plan-holder of an Ontario home ownership savings plan and the assets of that plan have been released under section 5 of the *Ontario Home Ownership Savings Plan Act, 1988* for the purpose of purchasing the qualifying eligible home of the transferee under that Act;
- (d) the qualifying eligible home of the transferee referred to in clause (c) now forms part of the land subject to the conveyance; and
- (e) the transferee, or his or her spouse, within the meaning of the *Ontario Home Ownership Savings Plan Act, 1988*, if the transferee is married,
  - (i) is entitled to receive an Ontario home ownership savings plan tax credit for the taxation year in which the assets of the transferee's Ontario home ownership savings plan were released for the purpose described in clause (c), or would have been entitled to such a tax credit for that taxation year if the transferee had made a contribution to the plan in that taxation year, or would have been so entitled

but for subsection 3 (2) of the *Ontario Home Ownership Savings Plan Act, 1988*, or 1988, c. 35

- (ii) was entitled to receive and did receive an Ontario home ownership savings plan tax credit for either of the two taxation years ending before the date the assets of the plan were released for the purpose described in clause (c),

the Minister may, upon application therefor within the prescribed time and in the prescribed manner, refund to the transferee the amount of tax determined under subsection (2) with respect to the conveyance, without interest thereon, where the Minister is satisfied that the qualifying eligible home had a total purchase price of not more than \$200,000.

(2) The amount of tax which may be refunded to a transferee under subsection (1) is, Amount of refund

- (a) where the total purchase price of the qualifying eligible home does not exceed \$150,000, the amount of the tax paid under subsection 2 (1), or, if the transferee is not the only transferee named in the conveyance, the portion of such tax applicable to the transferee's interest acquired under the conveyance including, where the transferee is married to a spouse within the meaning of the *Ontario Home Ownership Savings Plan Act, 1988*, the spouse's interest acquired under the conveyance; and 1988, c. 35
- (b) where the total purchase price of the qualifying eligible home exceeds \$150,000 but does not exceed \$200,000, the percentage of the tax paid under subsection 2 (1) appearing on the following table beside the range of total purchase prices which includes the total purchase price of the transferee's qualifying eligible home, except that if the transferee is not the only transferee named in the conveyance, the amount of the refund shall not exceed the percentage determined under this clause of the portion of the tax applicable to the transferee's interest acquired under the conveyance including, where the transferee is married to a spouse within the meaning of the *Ontario Home Ownership Savings Plan Act, 1988*, the spouse's interest acquired under the conveyance:

<i>Total Purchase Price</i>	<i>Percentage of Tax Paid</i>
\$150,001 - \$155,500	90 per cent
\$155,501 - \$161,000	80 per cent
\$161,001 - \$166,500	70 per cent
\$166,501 - \$172,000	60 per cent
\$172,001 - \$177,500	50 per cent
\$177,501 - \$183,000	40 per cent
\$183,001 - \$188,500	30 per cent
\$188,501 - \$194,000	20 per cent
\$194,001 - \$200,000	10 per cent

Total  
purchase  
price defined

(3) Subject to subsection (4), "total purchase price of a qualifying eligible home" for the purposes of this section means,

1988, c. 35

(a) where the conveyance is of land upon which there is an eligible home under the *Ontario Home Ownership Savings Plan Act, 1988* at the time of registration of the conveyance, the value of the consideration for the conveyance; or

(b) where the conveyance is of land upon which there was not yet an eligible home under the *Ontario Home Ownership Savings Plan Act, 1988* at the time of registration of the conveyance, the aggregate of the value of the consideration for the conveyance and the total cost for the construction or acquisition of the eligible home which subsequently forms part of the land.

Where part  
of land  
not for  
residential  
use

(4) Where a part of the land conveyed is not used for residential purposes at the time of the application for a refund under this section, the Minister may, to the extent that the Minister considers it practicable, determine what amount of the value of the consideration for the conveyance is reasonably attributable to the land used in connection with the transferee's qualifying eligible home and, for the purposes of determining the total purchase price of the qualifying eligible home and the amount of the refund payable under this section, the value of the consideration for the conveyance shall be deemed to be the amount so determined by the Minister and the amount of tax paid under subsection 2 (1) shall be deemed to be the amount of such tax which would have been payable thereon.

Offence

(5) Any person who makes or assists in making a statement in any application for a refund under this section, or in any document provided to the Minister in connection therewith, that, at the time and in the light of the circumstances under which it was made, is false or misleading in respect of any material fact or that omits to state any material fact the omis-



sion of which makes the statement false or misleading is guilty of an offence and on conviction is liable to a fine of not more than \$2,000.

(6) Where a refund is made under this section to a transferee and it is subsequently determined that the transferee was not entitled to the refund, or was entitled only to a refund in a lesser amount, the amount of the refund to which the transferee was not entitled shall, for the purposes of this Act, be deemed to be tax imposed by section 2 which was required to have been paid by the transferee on the date the refund was made to the transferee by the Minister.

Recovery of  
refund  
wrongly  
obtained

**5. Subsection 10 (4) of the said Act is repealed and the following substituted therefor:**

(4) The Minister may assess or reassess any person for any tax payable by the person under this Act within four years from the day the tax became payable, except that, where the Minister establishes that a person has made any misrepresentation that is attributable to neglect, carelessness or wilful default, or has committed any fraud, in supplying any information under this Act, in making any affidavit required by this Act, or in omitting to disclose any information, or the person has failed to deliver any return required by this Act, the Minister may assess or reassess at any time the Minister considers reasonable the tax payable by such person.

Limitation on  
assessment

**6.—(1) Subsection 18 (1) of the said Act is repealed and the following substituted therefor:**

(1) The Minister may make regulations,

Regulations

- (a) prescribing forms for the purposes of this Act and providing for their use;
- (b) providing for the approval by the Minister or a person designated by the Minister of prescribed forms containing variations;
- (c) providing that a variation of a prescribed form is void unless approved by the Minister or a person designated by the Minister.

**(2) Subsection 18 (2) of the said Act is amended by adding thereto the following clauses:**

- (ga) prescribing any matter required by this Act to be prescribed by the regulations;



(gb) defining any word or expression used in this Act that has not already been expressly defined in this Act;

(gc) providing for the method of calculating the total cost for the construction or acquisition of an eligible home for the purposes of section 7a.

Commence-  
ment

**7.—(1) Except as provided in subsections (2) and (3), this Act comes into force on the day it receives Royal Assent.**

Idem

**(2) Sections 2 and 3 come into force on the 1st day of June, 1989.**

Idem

**(3) Section 4 comes into force on the 18th day of May, 1989.**

Short title

**8. The short title of this Act is the *Land Transfer Tax Amendment Act, 1989*.**





# Bill 23

*(Chapter 39  
Statutes of Ontario, 1989)*

## **An Act to amend the Land Transfer Tax Act**

**The Hon. B. Grandmaître**  
*Minister of Revenue*

<i>1st Reading</i>	May 17th, 1989
<i>2nd Reading</i>	June 26th, 1989
<i>3rd Reading</i>	July 13th, 1989
<i>Royal Assent</i>	July 13th, 1989





## Bill 23

1989

## An Act to amend the Land Transfer Tax Act

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

**1.** Subsection 1 (1) of the *Land Transfer Tax Act*, being chapter 231 of the Revised Statutes of Ontario, 1980, as amended by the Statutes of Ontario, 1983, chapter 20, section 1 and 1985, chapter 21, section 1, is further amended by adding thereto the following clauses:

(gb) "Ontario home ownership savings plan" means an Ontario home ownership savings plan under the *Ontario Home Ownership Savings Plan Act, 1988*; 1988, c. 35

(gc) "Ontario home ownership savings plan tax credit", of an individual for a taxation year, means the deduction allowed to the individual under subsection 7 (2a) of the *Income Tax Act* for the taxation year of the individual as determined under that Act; R.S.O. 1980, c. 213

. . . . .

(ia) "registration", of a conveyance, means registration under the *Land Titles Act* or the *Registry Act*, and "registered" has a corresponding meaning. R.S.O. 1980, cc. 230, 445

**2.—(1)** Clause 2 (1) (c) of the said Act, as enacted by the Statutes of Ontario, 1985, chapter 21, section 2, is repealed and the following substituted therefor:

(c) at the rate of,

(i) one-half of 1 per cent of the value of the consideration for the conveyance up to and including \$55,000,

- (ii) 1 per cent of the value of the consideration which exceeds \$55,000 up to and including \$250,000, and
- (iii) 1.5 per cent of the value of the consideration which exceeds \$250,000; and

**(2) Clause 2 (1) (d) of the said Act, as enacted by the Statutes of Ontario, 1985, chapter 21, section 2, is repealed and the following substituted therefor:**

- (d) where the value of the consideration for the conveyance exceeds \$400,000 and the conveyance is a conveyance of land that contains at least one and not more than two single family residences, an additional tax of one-half of 1 per cent of the amount by which the value of the consideration exceeds \$400,000.

**(3) Subsection 2 (1a) of the said Act, as enacted by the Statutes of Ontario, 1985, chapter 21, section 2, is repealed and the following substituted therefor:**

Apportion-  
ment of  
consideration

(1a) Where, in respect of a conveyance of land,

- (a) subsection (2) does not apply;
- (b) the value of the consideration for the conveyance exceeds \$400,000; and
- (c) a part of the land being conveyed is used for a purpose other than residential purposes,

the Minister may, to the extent that he considers it practicable, determine what amount of the value of the consideration for the conveyance is reasonably attributable to the land used in connection with a single family residence, and the person tendering the conveyance for registration is, despite subsection (1), liable to the additional tax of one-half of 1 per cent only upon the amount by which the value of the consideration determined by the Minister to be attributable to land used in connection with a single family residence exceeds \$400,000.

**(4) Subsection 2 (6) of the said Act, as re-enacted by the Statutes of Ontario, 1985, chapter 21, section 2, is repealed and the following substituted therefor:**

(6) Where only a part of the land being conveyed is unrestricted land and the conveyance is to or in trust for any non-resident person, the Minister may, to the extent the Minister considers it practicable, determine what amount of the value of the consideration for the conveyance is reasonably attributable to the unrestricted land being conveyed, and the person tendering the conveyance for registration is, despite subsection (1) or (2), liable to a tax,

Apportionment of consideration

(a) with respect to the amount of the value of the consideration determined by the Minister to be reasonably attributable to the unrestricted land being conveyed, computed at the rate of,

(i) 1 per cent of the amount determined by the Minister which does not exceed \$250,000,

(ii) 1.5 per cent of the amount determined by the Minister which exceeds \$250,000, and

(iii) any tax required to be calculated under clause (1) (d) or subsection (1a), whichever is the lesser, on the amount determined by the Minister; and

(b) computed at the rate of 20 per cent of the amount of the value of the consideration for the conveyance that is determined by the Minister not to be reasonably attributable to the unrestricted land being conveyed.

**3. Subsection 4 (1) of the said Act, as re-enacted by the Statutes of Ontario, 1985, chapter 21, section 3, is repealed and the following substituted therefor:**

(1) There shall be filed with the collector and attached by the collector to the conveyance to which it relates an affidavit in the prescribed form setting out,

Contents of affidavit as to consideration

(a) the true value of the consideration for the conveyance;

(b) the true amount in cash and the value of any property or security included in the value of the consideration;

(c) the amount or value of any lien or encumbrance subject to which the conveyance was made;



- (d) whether the transferee to whom the land is being conveyed is a non-resident person or the trustee of a non-resident person;
- (e) where the value of the conveyance exceeds \$400,000, whether the land being conveyed contains at least one and not more than two single family residences; and
- (f) any other information prescribed by the Minister that in the Minister's opinion is required for the purpose of administering and enforcing this Act.

**4. The said Act is amended by adding thereto the following section:**

Refund on  
purchase of  
eligible home  
under  
1988, c. 35

**7a.—(1) Where, in respect of a conveyance of land,**

- (a) subsection 2 (2) does not apply;
- (b) the tax payable under subsection 2 (1) was paid with respect to the conveyance and the conveyance was registered after the 17th day of May, 1989;
- (c) a transferee named in the conveyance was a plan-holder of an Ontario home ownership savings plan and the assets of that plan have been released under section 5 of the *Ontario Home Ownership Savings Plan Act, 1988* for the purpose of purchasing the qualifying eligible home of the transferee under that Act;
- (d) the qualifying eligible home of the transferee referred to in clause (c) now forms part of the land subject to the conveyance; and
- (e) the transferee, or his or her spouse, within the meaning of the *Ontario Home Ownership Savings Plan Act, 1988*, if the transferee is married,
  - (i) is entitled to receive an Ontario home ownership savings plan tax credit for the taxation year in which the assets of the transferee's Ontario home ownership savings plan were released for the purpose described in clause (c), or would have been entitled to such a tax credit for that taxation year if the transferee had made a contribution to the plan in that taxation year, or would have been so entitled

but for subsection 3 (2) of the *Ontario Home Ownership Savings Plan Act, 1988*, or 1988, c. 35

- (ii) was entitled to receive and did receive an Ontario home ownership savings plan tax credit for either of the two taxation years ending before the date the assets of the plan were released for the purpose described in clause (c),

the Minister may, upon application therefor within the prescribed time and in the prescribed manner, refund to the transferee the amount of tax determined under subsection (2) with respect to the conveyance, without interest thereon, where the Minister is satisfied that the qualifying eligible home had a total purchase price of not more than \$200,000.

(2) The amount of tax which may be refunded to a transferee under subsection (1) is, Amount of refund

- (a) where the total purchase price of the qualifying eligible home does not exceed \$150,000, the amount of the tax paid under subsection 2 (1), or, if the transferee is not the only transferee named in the conveyance, the portion of such tax applicable to the transferee's interest acquired under the conveyance including, where the transferee is married to a spouse within the meaning of the *Ontario Home Ownership Savings Plan Act, 1988*, the spouse's interest acquired under the conveyance; and 1988, c. 35
- (b) where the total purchase price of the qualifying eligible home exceeds \$150,000 but does not exceed \$200,000, the percentage of the tax paid under subsection 2 (1) appearing on the following table beside the range of total purchase prices which includes the total purchase price of the transferee's qualifying eligible home, except that if the transferee is not the only transferee named in the conveyance, the amount of the refund shall not exceed the percentage determined under this clause of the portion of the tax applicable to the transferee's interest acquired under the conveyance including, where the transferee is married to a spouse within the meaning of the *Ontario Home Ownership Savings Plan Act, 1988*, the spouse's interest acquired under the conveyance:

Total Purchase Price	Percentage of Tax Paid
\$150,001 - \$155,500	90 per cent
\$155,501 - \$161,000	80 per cent
\$161,001 - \$166,500	70 per cent
\$166,501 - \$172,000	60 per cent
\$172,001 - \$177,500	50 per cent
\$177,501 - \$183,000	40 per cent
\$183,001 - \$188,500	30 per cent
\$188,501 - \$194,000	20 per cent
\$194,001 - \$200,000	10 per cent

Total  
purchase  
price defined

(3) Subject to subsection (4), "total purchase price of a qualifying eligible home" for the purposes of this section means,

1988, c. 35

- (a) where the conveyance is of land upon which there is an eligible home under the *Ontario Home Ownership Savings Plan Act, 1988* at the time of registration of the conveyance, the value of the consideration for the conveyance; or
- (b) where the conveyance is of land upon which there was not yet an eligible home under the *Ontario Home Ownership Savings Plan Act, 1988* at the time of registration of the conveyance, the aggregate of the value of the consideration for the conveyance and the total cost for the construction or acquisition of the eligible home which subsequently forms part of the land.

Where part  
of land  
not for  
residential  
use

(4) Where a part of the land conveyed is not used for residential purposes at the time of the application for a refund under this section, the Minister may, to the extent that the Minister considers it practicable, determine what amount of the value of the consideration for the conveyance is reasonably attributable to the land used in connection with the transferee's qualifying eligible home and, for the purposes of determining the total purchase price of the qualifying eligible home and the amount of the refund payable under this section, the value of the consideration for the conveyance shall be deemed to be the amount so determined by the Minister and the amount of tax paid under subsection 2 (1) shall be deemed to be the amount of such tax which would have been payable thereon.

Offence

(5) Any person who makes or assists in making a statement in any application for a refund under this section, or in any document provided to the Minister in connection therewith, that, at the time and in the light of the circumstances under which it was made, is false or misleading in respect of any material fact or that omits to state any material fact the omis-



sion of which makes the statement false or misleading is guilty of an offence and on conviction is liable to a fine of not more than \$2,000.

(6) Where a refund is made under this section to a transferee and it is subsequently determined that the transferee was not entitled to the refund, or was entitled only to a refund in a lesser amount, the amount of the refund to which the transferee was not entitled shall, for the purposes of this Act, be deemed to be tax imposed by section 2 which was required to have been paid by the transferee on the date the refund was made to the transferee by the Minister.

Recovery of  
refund  
wrongly  
obtained

**5. Subsection 10 (4) of the said Act is repealed and the following substituted therefor:**

(4) The Minister may assess or reassess any person for any tax payable by the person under this Act within four years from the day the tax became payable, except that, where the Minister establishes that a person has made any misrepresentation that is attributable to neglect, carelessness or wilful default, or has committed any fraud, in supplying any information under this Act, in making any affidavit required by this Act, or in omitting to disclose any information, or the person has failed to deliver any return required by this Act, the Minister may assess or reassess at any time the Minister considers reasonable the tax payable by such person.

Limitation on  
assessment

**6.—(1) Subsection 18 (1) of the said Act is repealed and the following substituted therefor:**

(1) The Minister may make regulations,

Regulations

- (a) prescribing forms for the purposes of this Act and providing for their use;
- (b) providing for the approval by the Minister or a person designated by the Minister of prescribed forms containing variations;
- (c) providing that a variation of a prescribed form is void unless approved by the Minister or a person designated by the Minister.

**(2) Subsection 18 (2) of the said Act is amended by adding thereto the following clauses:**

- (ga) prescribing any matter required by this Act to be prescribed by the regulations;



(gb) defining any word or expression used in this Act that has not already been expressly defined in this Act;

(gc) providing for the method of calculating the total cost for the construction or acquisition of an eligible home for the purposes of section 7a.

Commence-  
ment

**7.—(1) Except as provided in subsections (2) and (3), this Act comes into force on the day it receives Royal Assent.**

Idem

**(2) Sections 2 and 3 shall be deemed to have come into force on the 1st day of June, 1989.**

Idem

**(3) Section 4 shall be deemed to have come into force on the 18th day of May, 1989.**

Short title

**8. The short title of this Act is the *Land Transfer Tax Amendment Act, 1989*.**





# Bill 24

## **An Act to amend the Gasoline Tax Act**

The Hon. B. Grandmaître  
*Minister of Revenue*

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*1st Reading*      May 17th, 1989  
*2nd Reading*  
*3rd Reading*  
*Royal Assent*

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## EXPLANATORY NOTES

The purpose of the Bill is to implement the Treasurer's 1989 Budget proposals related to the taxation of unleaded and leaded gasoline, propane and aviation fuel. The changes are summarized below.

### **Subsection 2 (1) — Unleaded and Leaded Gasoline.**

Effective May 18, 1989, the tax rate on unleaded gasoline will increase by 1 cent from 9.3 to 10.3 cents per litre. This rate will increase by an additional 1 cent to 11.3 cents per litre effective January 1, 1990.

The tax rate on leaded gasoline will increase, effective May 18, 1989, by 1 cent from 12.3 to 13.3 cents per litre. This rate will increase by an additional 1 cent to 14.3 cents per litre effective January 1, 1990.

### **Subsection 2 (2) — Aviation Fuel**

Effective May 18, 1989, the tax rate on aviation fuel will increase by 0.22 cents from 1.88 to 2.1 cents per litre.

### **Subsection 2 (3) — Propane**

Effective July 1, 1989, a new tax will be imposed on propane used in licensed motor vehicles. Initially, the tax rate on propane will be 2.3 cents per litre. This rate will increase to 4.3 cents per litre effective January 1, 1990.

### **Sections 1 and 3 — Miscellaneous amendments.**

The amendments are complementary to the imposition of a tax on propane as set out in subsection 2 (3) of the Bill.

## Bill 24

1989

## An Act to amend the Gasoline Tax Act

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1.—(1) Clause 1 (d) of the *Gasoline Tax Act*, being chapter 186 of the Revised Statutes of Ontario, 1980, is amended by striking out “or” at the end of subclause (iii), by repealing subclause (iv) and by adding thereto the following clauses:

(iv) ethanol, methanol or natural gas, or

(v) propane, except when used or intended to be used in a motor vehicle licensed or required to be licensed under the *Highway Traffic Act*.

R.S.O. 1980,  
c. 198

(2) Section 1 of the said Act, as amended by the Statutes of Ontario, 1985, chapter 24, section 1 and 1988, chapter 66, section 1, is further amended by adding thereto the following clause:

(ga) “propane” means any product commonly known as liquified petroleum gas that conforms to Grade 1 or Grade 2, as described in the Standard CAN/CGSB-3.14-M88 of the National Standards of Canada as published by the Canadian General Standards Board or that conforms to such other liquified petroleum gas standard as is published in replacement thereof by the Canadian General Standards Board and includes any substance added thereto.

2.—(1) Subsection 2 (1) of the said Act, as re-enacted by the Statutes of Ontario, 1985, chapter 24, section 2 and amended by 1988, chapter 66, section 2, is repealed and the following substituted therefor:

(1) Every purchaser of gasoline shall pay to the Treasurer, a tax at the rate of, Tax on  
gasoline

- (a) 10.3 cents per litre on all gasoline purchased by, or delivered to, the purchaser before the 1st day of January, 1990; and
- (b) 11.3 cents per litre on all gasoline purchased by, or delivered to, the purchaser after the 31st day of December, 1989.

(2) Subsection 2 (2) of the said Act, as re-enacted by the Statutes of Ontario, 1985, chapter 24, section 2, is amended by striking out "1.88" in the second line and inserting in lieu thereof "2.1".

(3) Section 2 of the said Act, as amended by the Statutes of Ontario, 1981, chapter 11, section 2, 1985, chapter 24, section 2 and 1988, chapter 66, section 2, is further amended by adding thereto the following subsection:

Tax on  
propane

R.S.O. 1980,  
c. 198

(2b) Every purchaser of propane shall pay to the Treasurer, on all propane purchased by, or delivered to, the purchaser for use in a motor vehicle licensed or required to be licensed under the *Highway Traffic Act*, a tax at the rate of,

- (a) 2.3 cents per litre on propane purchased or delivered before the 1st day of January, 1990;
- (b) 4.3 cents per litre on propane purchased or delivered after the 31st day of December, 1989.

3. Clauses 1 (e), (h), (j) and (l), subsections 2 (4), 3 (1), 4 (1), 4 (2), 6 (1), 6 (2), 6 (3) and 6 (4), clause 7 (1) (b), subsections 10 (2) and 20 (2), section 31 and clause 32 (2) (b) of the said Act are amended by striking out "gasoline or aviation fuel" wherever that expression occurs and inserting in lieu thereof in each instance "gasoline, aviation fuel or propane".

Commence-  
ment

4.—(1) Subject to subsection (2), this Act shall be deemed to have come into force on the 18th day of May, 1989.

(2) Section 1, subsection 2 (3) and section 3 come into force on the 1st day of July, 1989 and apply in respect of propane purchased or delivered after the 30th day of June, 1989.

Short title

5. The short title of this Act is the *Gasoline Tax Amendment Act, 1989*.

# Bill 24

## **An Act to amend the Gasoline Tax Act**

**The Hon. B. Grandmaître**  
*Minister of Revenue*

---

*1st Reading*      May 17th, 1989

*2nd Reading*      June 26th, 1989

*3rd Reading*

*Royal Assent*

*(Reprinted as amended by the Committee of the Whole House)*



## EXPLANATORY NOTES

The purpose of the Bill is to implement the Treasurer's 1989 Budget proposals related to the taxation of unleaded and leaded gasoline, propane and aviation fuel. The changes are summarized below.

### **Subsection 2 (1) — Unleaded and Leaded Gasoline**

Effective May 18, 1989, the tax rate on unleaded gasoline will increase by 1 cent from 9.3 to 10.3 cents per litre. This rate will increase by an additional 1 cent to 11.3 cents per litre effective January 1, 1990.

The tax rate on leaded gasoline will increase, effective May 18, 1989, by 1 cent from 12.3 to 13.3 cents per litre. This rate will increase by an additional 1 cent to 14.3 cents per litre effective January 1, 1990.

### **Subsection 2 (2) — Aviation Fuel**

Effective May 18, 1989, the tax rate on aviation fuel will increase by 0.22 cents from 1.88 to 2.1 cents per litre.

### **Subsection 2 (3) — Propane**

Effective July 1, 1989, a new tax will be imposed on propane used in licensed motor vehicles. Initially, the tax rate on propane will be 2.3 cents per litre. This rate will increase to 4.3 cents per litre effective January 1, 1990.

**SECTION 3.** This amendment sets out the collection and remittance obligations of importers and requires importers who are not collectors to account for the tax they are obliged to collect or to pay at the point of entry into Ontario to officials authorized by the Minister.

**SECTION 4.** This amendment permits officials authorized by the Minister at border points to request the specified information from those transporting bulk aviation fuel, bulk gasoline or bulk propane and to detain the motor vehicle until correct information is provided and until the required remittance and returns are made by the importer.

### **SECTIONS 1 and 5 — Miscellaneous amendments**

The amendments are complementary to the imposition of a tax on propane as set out in subsection 2 (3) of the Bill.

## Bill 24

1989

## An Act to amend the Gasoline Tax Act

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

**1.—(1)** Clause 1 (d) of the *Gasoline Tax Act*, being chapter 186 of the Revised Statutes of Ontario, 1980, is amended by striking out “or” at the end of subclause (iii), by repealing subclause (iv) and by adding thereto the following subclauses:

(iv) ethanol, methanol or natural gas, or

(v) propane, except when used or intended to be used in a motor vehicle licensed or required to be licensed under the *Highway Traffic Act*.

R.S.O. 1980,  
c. 198

➡ **(2)** Clause 1 (e) of the said Act is repealed and the following substituted therefor:

(e) “importer” means a person who brings or causes to be brought into Ontario gasoline in bulk, aviation fuel in bulk or propane in bulk. ⬆

➡ **(3)** Section 1 of the said Act, as amended by the Statutes of Ontario, 1985, chapter 24, section 1 and 1988, chapter 66, section 1, is further amended by adding thereto the following clauses:

(ba) “aviation fuel in bulk” means aviation fuel stored, transported or transferred by any means other than in a fuel tank of an aircraft or a motor vehicle in which aviation fuel for generating power in an aircraft or the motor vehicle is kept;

. . . . .  
(da) “gasoline in bulk” means gasoline stored, transported or transferred by any means other than in a

fuel tank of a motor vehicle in which gasoline for generating power in the motor vehicle is kept; ▲

(ga) "propane" means any product commonly known as liquified petroleum gas that conforms to Grade 1 or Grade 2, as described in the Standard CAN/CGSB-3.14-M88 of the National Standards of Canada as published by the Canadian General Standards Board or that conforms to such other liquified petroleum gas standard as is published in replacement thereof by the Canadian General Standards Board and includes any substance added thereto;

▼  
(gb) "propane in bulk" means propane stored, transported or transferred by any means other than in a fuel tank of a motor vehicle in which propane for generating power in the motor vehicle is kept. ▲

**2.—(1) Subsection 2 (1) of the said Act, as re-enacted by the Statutes of Ontario, 1985, chapter 24, section 2 and amended by 1988, chapter 66, section 2, is repealed and the following substituted therefor:**

Tax on  
gasoline

(1) Every purchaser of gasoline shall pay to the Treasurer, a tax at the rate of,

(a) 10.3 cents per litre on all gasoline purchased by, or delivered to, the purchaser before the 1st day of January, 1990; and

(b) 11.3 cents per litre on all gasoline purchased by, or delivered to, the purchaser after the 31st day of December, 1989.

(2) Subsection 2 (2) of the said Act, as re-enacted by the Statutes of Ontario, 1985, chapter 24, section 2, is amended by striking out "1.88" in the second line and inserting in lieu thereof "2.1".

(3) Section 2 of the said Act, as amended by the Statutes of Ontario, 1981, chapter 11, section 2, 1985, chapter 24, section 2 and 1988, chapter 66, section 2, is further amended by adding thereto the following subsection:

Tax on  
propane

(2b) Every purchaser of propane shall pay to the Treasurer, on all propane purchased by, or delivered to, the purchaser for use in a motor vehicle licensed or required to be licensed under the *Highway Traffic Act*, a tax at the rate of,

- (a) 2.3 cents per litre on propane purchased or delivered before the 1st day of January, 1990;
- (b) 4.3 cents per litre on propane purchased or delivered after the 31st day of December, 1989.

**3. Section 4 of the said Act is repealed and the following substituted therefor:**

**4.—(1)** Every importer shall, at the times and in the manner prescribed, collect from every wholesaler, retailer or purchaser to whom the importer sells aviation fuel, gasoline or propane, the tax collectable and payable under this Act and, for that purpose, every importer is an agent of the Minister for the collection of the tax imposed by this Act. Collection of tax

(2) Every importer who is a collector shall remit to the Treasurer, at the time and in the manner prescribed, the tax collectable and payable with respect to the aviation fuel, gasoline and propane imported by that person. Transmission of tax

(3) At the time of entry into Ontario from outside Canada of aviation fuel, gasoline or propane, every importer who is not a collector shall remit to the Treasurer, Security

(a) an amount as security equal to the tax that the importer would be obliged to collect under subsection (1) on the resale in Ontario of the aviation fuel, gasoline or propane; and

(b) the tax payable by the importer under subsection 2 (1).

(4) The remittance required by subsection (3) shall be made to a person authorized by the Minister for forwarding to the Treasurer by certified cheque or money order, payable to the Treasurer. Payment

(5) Every importer shall, at the times and in the manner prescribed, deliver to the Minister or to a person authorized by the Minister a return with respect to the aviation fuel, gasoline and propane imported by the importer. Returns

**4. The said Act is amended by adding thereto the following section:**

**16a.—(1)** Every person carrying aviation fuel in bulk, gasoline in bulk or propane in bulk and the operator of every motor vehicle carrying such products, shall, when requested by the Minister or any person authorized by the Minister, give Fuel in bulk



written evidence to the requester of any or all of the following information,

- (a) the name and address of any person from whom the aviation fuel, gasoline or propane was obtained and the name and address of any person to whom the aviation fuel, gasoline or propane so obtained was delivered or is to be delivered;
- (b) the quantity of aviation fuel, gasoline or propane delivered or to be delivered to any person;
- (c) the use or intended use, if known, to be made of any aviation fuel, gasoline or propane delivered or to be delivered from such motor vehicle.

Detention


(2) The Minister or a person authorized by the Minister may detain a motor vehicle carrying aviation fuel in bulk, gasoline in bulk or propane in bulk where,

- (a) written evidence requested under subsection (1) is not given;
- (b) the information in the written evidence that is given is false; or
- (c) the importer fails to comply with section 4 or fails to deliver any return in accordance with section 4.

Time

(3) The Minister or a person authorized by the Minister may detain a motor vehicle under subsection (2) until the written evidence is given, the true information is given, the remittance required under section 4 is delivered or the return in accordance with section 4 is delivered, as the case requires.

Liability

(4) During any detention under subsection (2), the Crown, or any person acting in the administration and enforcement of this Act, is not liable for any damages to the motor vehicle, its contents, cargo or freight, or to its owner or driver or otherwise that may occur or be alleged to occur by reason of the detention of the motor vehicle pending compliance with section 4 and subsection (1). 

**5.** Clauses 1 (e), (h), (j) and (l), subsections 2 (4), 3 (1), 4 (1), 4 (2), 6 (1), 6 (2), 6 (3) and 6 (4), clause 7 (1) (b), subsections 10 (2) and 20 (2), section 31 and clause 32 (2) (b) of the said Act are amended by striking out “gasoline or aviation fuel” wherever that expression occurs and inserting in lieu thereof in each instance “gasoline, aviation fuel or propane”.

**6.**—(1) Subject to subsections (2) and (3), this Act shall be deemed to have come into force on the 18th day of May, 1989. Commence-  
ment

(2) Subsection 1 (1), subsection 2 (3) and section 5 shall be deemed to have come into force on the 1st day of July, 1989 and apply in respect of propane purchased or delivered after the 30th day of June, 1989. Idem

(3) Subsections 1 (2) and (3) and sections 3 and 4 come into force on a day to be named by proclamation of the Lieutenant Governor. Idem

**7.** The short title of this Act is the *Gasoline Tax Amendment Act, 1989*. Short title



**Bill 24**

*(Chapter 45  
Statutes of Ontario, 1989)*

**An Act to amend the Gasoline Tax Act**

**The Hon. B. Grandmaître**  
*Minister of Revenue*

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<i>1st Reading</i>	May 17th, 1989
<i>2nd Reading</i>	June 26th, 1989
<i>3rd Reading</i>	July 26th, 1989
<i>Royal Assent</i>	July 26th, 1989

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# Bill 24

1989

## An Act to amend the Gasoline Tax Act

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

**1.—(1) Clause 1 (d) of the *Gasoline Tax Act*, being chapter 186 of the Revised Statutes of Ontario, 1980, is amended by striking out “or” at the end of subclause (iii), by repealing subclause (iv) and by adding thereto the following subclauses:**

(iv) ethanol, methanol or natural gas, or

(v) propane, except when used or intended to be used in a motor vehicle licensed or required to be licensed under the *Highway Traffic Act*.

R.S.O. 1980,  
c. 198

**(2) Clause 1 (e) of the said Act is repealed and the following substituted therefor:**

(e) “importer” means a person who brings or causes to be brought into Ontario gasoline in bulk, aviation fuel in bulk or propane in bulk.

**(3) Section 1 of the said Act, as amended by the Statutes of Ontario, 1985, chapter 24, section 1 and 1988, chapter 66, section 1, is further amended by adding thereto the following clauses:**

(ba) “aviation fuel in bulk” means aviation fuel stored, transported or transferred by any means other than in a fuel tank of an aircraft or a motor vehicle in which aviation fuel for generating power in an aircraft or the motor vehicle is kept;

. . . . .

(da) “gasoline in bulk” means gasoline stored, transported or transferred by any means other than in a

fuel tank of a motor vehicle in which gasoline for generating power in the motor vehicle is kept;

. . . . .

(ga) "propane" means any product commonly known as liquified petroleum gas that conforms to Grade 1 or Grade 2, as described in the Standard CAN/CGSB-3.14-M88 of the National Standards of Canada as published by the Canadian General Standards Board or that conforms to such other liquified petroleum gas standard as is published in replacement thereof by the Canadian General Standards Board and includes any substance added thereto;

(gb) "propane in bulk" means propane stored, transported or transferred by any means other than in a fuel tank of a motor vehicle in which propane for generating power in the motor vehicle is kept.

**2.—(1) Subsection 2 (1) of the said Act, as re-enacted by the Statutes of Ontario, 1985, chapter 24, section 2 and amended by 1988, chapter 66, section 2, is repealed and the following substituted therefor:**

Tax on  
gasoline

(1) Every purchaser of gasoline shall pay to the Treasurer, a tax at the rate of,

- (a) 10.3 cents per litre on all gasoline purchased by, or delivered to, the purchaser before the 1st day of January, 1990; and
- (b) 11.3 cents per litre on all gasoline purchased by, or delivered to, the purchaser after the 31st day of December, 1989.

**(2) Subsection 2 (2) of the said Act, as re-enacted by the Statutes of Ontario, 1985, chapter 24, section 2, is amended by striking out "1.88" in the second line and inserting in lieu thereof "2.1".**

**(3) Section 2 of the said Act, as amended by the Statutes of Ontario, 1981, chapter 11, section 2, 1985, chapter 24, section 2 and 1988, chapter 66, section 2, is further amended by adding thereto the following subsection:**

Tax on  
propane

(2b) Every purchaser of propane shall pay to the Treasurer, on all propane purchased by, or delivered to, the purchaser for use in a motor vehicle licensed or required to be licensed under the *Highway Traffic Act*, a tax at the rate of,

- (a) 2.3 cents per litre on propane purchased or delivered before the 1st day of January, 1990;
- (b) 4.3 cents per litre on propane purchased or delivered after the 31st day of December, 1989.

**3. Section 4 of the said Act is repealed and the following substituted therefor:**

**4.—(1)** Every importer shall, at the times and in the manner prescribed, collect from every wholesaler, retailer or purchaser to whom the importer sells aviation fuel, gasoline or propane, the tax collectable and payable under this Act and, for that purpose, every importer is an agent of the Minister for the collection of the tax imposed by this Act. Collection of tax

(2) Every importer who is a collector shall remit to the Treasurer, at the time and in the manner prescribed, the tax collectable and payable with respect to the aviation fuel, gasoline and propane imported by that person. Transmission of tax

(3) At the time of entry into Ontario from outside Canada of aviation fuel, gasoline or propane, every importer who is not a collector shall remit to the Treasurer, Security

(a) an amount as security equal to the tax that the importer would be obliged to collect under subsection (1) on the resale in Ontario of the aviation fuel, gasoline or propane; and

(b) the tax payable by the importer under subsection 2 (1).

(4) The remittance required by subsection (3) shall be made to a person authorized by the Minister for forwarding to the Treasurer by certified cheque or money order, payable to the Treasurer. Payment

(5) Every importer shall, at the times and in the manner prescribed, deliver to the Minister or to a person authorized by the Minister a return with respect to the aviation fuel, gasoline and propane imported by the importer. Returns

**4. The said Act is amended by adding thereto the following section:**

**16a.—(1)** Every person carrying aviation fuel in bulk, gasoline in bulk or propane in bulk and the operator of every motor vehicle carrying such products, shall, when requested by the Minister or any person authorized by the Minister, give Fuel in bulk



written evidence to the requester of any or all of the following information,

- (a) the name and address of any person from whom the aviation fuel, gasoline or propane was obtained and the name and address of any person to whom the aviation fuel, gasoline or propane so obtained was delivered or is to be delivered;
- (b) the quantity of aviation fuel, gasoline or propane delivered or to be delivered to any person;
- (c) the use or intended use, if known, to be made of any aviation fuel, gasoline or propane delivered or to be delivered from such motor vehicle.

Detention

(2) The Minister or a person authorized by the Minister may detain a motor vehicle carrying aviation fuel in bulk, gasoline in bulk or propane in bulk where,

- (a) written evidence requested under subsection (1) is not given;
- (b) the information in the written evidence that is given is false; or
- (c) the importer fails to comply with section 4 or fails to deliver any return in accordance with section 4.

Time

(3) The Minister or a person authorized by the Minister may detain a motor vehicle under subsection (2) until the written evidence is given, the true information is given, the remittance required under section 4 is delivered or the return in accordance with section 4 is delivered, as the case requires.

Liability

(4) During any detention under subsection (2), the Crown, or any person acting in the administration and enforcement of this Act, is not liable for any damages to the motor vehicle, its contents, cargo or freight, or to its owner or driver or otherwise that may occur or be alleged to occur by reason of the detention of the motor vehicle pending compliance with section 4 and subsection (1).

**5. Clauses 1 (e), (h), (j) and (l), subsections 2 (4), 3 (1), 4 (1), 4 (2), 6 (1), 6 (2), 6 (3) and 6 (4), clause 7 (1) (b), subsections 10 (2) and 20 (2), section 31 and clause 32 (2) (b) of the said Act are amended by striking out "gasoline or aviation fuel" wherever that expression occurs and inserting in lieu thereof in each instance "gasoline, aviation fuel or propane".**

**6.—**(1) Subject to subsections (2) and (3), this Act shall be deemed to have come into force on the 18th day of May, 1989. Commence-  
ment

(2) Subsection 1 (1), subsection 2 (3) and section 5 shall be deemed to have come into force on the 1st day of July, 1989 and apply in respect of propane purchased or delivered after the 30th day of June, 1989. Idem

(3) Subsections 1 (2) and (3) and sections 3 and 4 come into force on a day to be named by proclamation of the Lieutenant Governor. Idem

**7.** The short title of this Act is the *Gasoline Tax Amendment Act, 1989*. Short title



# Bill 25

## **An Act to protect and enhance the Quality of Drinking Water in Ontario**

Mrs. Grier

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<i>1st Reading</i>	May 18th, 1989
<i>2nd Reading</i>	
<i>3rd Reading</i>	
<i>Royal Assent</i>	

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## EXPLANATORY NOTES

The Bill is intended to protect and enhance drinking water quality in Ontario.

It provides opportunities for public involvement in the making of regulations to set maximum permissible levels for contaminants and other substances in drinking water. These regulations would apply to both public and private water systems.

The operator of a public water system is required to monitor water quality regularly and notify the users of the system as well as the Minister of the Environment of the results. Any user of a private water system may have the water tested by the Ministry of the Environment.

It is an offence for the operator of a public water system to provide water which contravenes the regulations or to fail to comply with monitoring and notice requirements. It is an offence for anyone to pollute a public or private water system.

The Bill permits water users to sue to recover damages for contraventions of the Act and gives any person standing to seek judicial review against the Minister of the Environment.

The Minister is authorized to commission research into matters related to drinking water quality and an advisory council is created to assist the Minister.

**Bill 25****1989**

**An Act to protect and enhance the  
Quality of Drinking Water in Ontario**

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

**1. In this Act,**

Definitions

“Board” means the Water Review Board;

“contaminant” means any biological, chemical or physical agent or combination thereof prescribed as a contaminant;

“Gazette” means *The Ontario Gazette*;

“Minister” means the Minister of the Environment;

“prescribed” means prescribed by the regulations;

“private water system” means any water system that has fewer than fifteen service connections or regularly serves fewer than twenty-five individuals;

“public water supplier” means a person who operates a public water system;

“public water system” means any water system that has fifteen or more service connections or regularly serves twenty-five or more individuals;

“substance” means anything that affects the odour, appearance or taste of drinking water and is prescribed as a substance;

“user”, when used in connection with a water system or public water supplier, means a person who obtains water from the system or supplier;

“water system” means any works for the collection, supply and distribution of water that may be used as drinking water.

Purpose

**2.** The purpose of this Act is the protection and enhancement of drinking water quality throughout Ontario.

#### DUTIES OF SUPPLIERS

Duties of  
supplier

**3.** Every public water supplier shall,

- (a) conduct complete water tests in accordance with the regulations, monthly or more frequently as may be prescribed by regulation, to establish contaminant and substance levels and compliance with prescribed standards;
- (b) promptly publish the results of all tests conducted under clause (a) in a newspaper that is published in the community where the supplier's regular users reside;
- (c) supply the results of all tests conducted under clause (a) to every user together with the regular water bill;
- (d) promptly report the results of all tests conducted under clause (a) to the Minister;
- (e) keep full records of all tests conducted under clause (a) and make them available to any person upon request;
- (f) where a test reveals that maximum permitted contaminant levels or maximum permitted substance levels are exceeded or prescribed standards are not adhered to,
  - (i) take immediate steps to cause the water to comply with this Act and the regulations, and
  - (ii) make an alternate supply of safe drinking water available to all users until the main supply complies with this Act and the regulations.

#### PUBLIC INVOLVEMENT IN REGULATION-MAKING

Draft  
regulations  
concerning  
contaminants

**4.—(1)** The Minister shall within 180 days after the day this Act comes into force publish in the Gazette a notice set-

ting forth proposed regulations under clause 14 (2) (b) and calling for briefs and submissions in connection therewith.

(2) Any person may within ninety days after the publication of a notice under subsection (1) or (6) require the Board to hold a hearing into any of the proposed regulations by delivering a notice of objection to the Board. Objection

(3) The Board shall hold any hearing required under subsection (2) expeditiously and may consolidate any such hearings where common issues are raised. Hearing

(4) Upon completion of all hearings under subsection (2), the Board shall report its findings and conclusions to the Minister and shall provide a copy of the report to every person who delivered a notice of objection under subsection (2). Report

(5) Regulations under clause 14 (2) (b) shall come into force on or before a day fifteen months after the coming into force of this Act. Effective date

(6) Before further regulations are made or existing regulations are revoked or amended under clause 14 (2) (b), the Minister shall publish in the Gazette a notice setting forth the proposed regulations and calling for briefs and submissions in connection therewith. Further regulations

5.—(1) The Minister shall within 240 days after the day this Act comes into force publish in the Gazette a notice setting forth proposed regulations under clause 14 (2) (c) and calling for briefs and submissions in connection therewith. Draft regulations concerning substances

(2) Regulations under clause 14 (2) (c) shall come into force on or before a day fifteen months after the coming into force of this Act. Effective date

(3) Before further regulations are made or existing regulations are revoked or amended under clause 14 (2) (c), the Minister shall publish in the Gazette a notice setting forth the proposed regulations and calling for briefs and submissions in connection therewith. Further regulations

#### OFFENCES

6.—(1) No public water supplier shall cause or permit to be supplied to users, Supplying unsafe water

(a) water containing any contaminant that exceeds the applicable maximum permitted level; or



- (b) water containing any substance that contravenes a prescribed standard or exceeds the applicable maximum permitted level.

Polluting  
water  
system

(2) No person shall deposit in, add to, emit or discharge into a public water system or a private water system any contaminant or substance so as to cause the water to exceed the maximum permitted level for the contaminant or substance or to contravene a prescribed standard.

Penalties

7. Any person who contravenes this Act or the regulations is guilty of an offence and on conviction is liable to,

- (a) in the case of a contravention of section 6 that relates to a contaminant, a fine not exceeding \$50,000; and
- (b) in the case of any other contravention, a fine not exceeding \$25,000.

#### PRIVATE REMEDIES

Action for  
damages

8.—(1) Any person may, by action, recover damages caused by a contravention of this Act or the regulations from the person who committed the contravention.

Judicial  
review

(2) Any person may apply for judicial review of the Minister's exercise or non-exercise of any power or fulfilment or non-fulfilment of any duty conferred or imposed on the Minister by this Act, whether or not the person applying is specially affected or has suffered special damages.

#### WATER REVIEW BOARD AND WATER ADVISORY COUNCIL

Water  
Review  
Board  
established

9.—(1) The Water Review Board is hereby established and shall consist of not fewer than five persons appointed by the Lieutenant Governor in Council, who shall hold office during pleasure and none of whom shall be members of the public service.

Chairman  
and vice-  
chairman

(2) The Lieutenant Governor in Council may appoint one of the members of the Board as chairman and another of the members as vice-chairman.

Quorum

(3) Three members of the Board constitute a quorum.

Remuneration

(4) The members of the Board may be paid such remuneration and expenses as the Lieutenant Governor in Council from time to time determines.

(5) The chairman may authorize one member of the Board to conduct a hearing by the Board and the member has all the powers of the Board for the purpose of the hearing.

One member  
may conduct  
hearing

(6) The report of such member may be adopted as the decision of the Board by two other members of the Board, one of whom shall be the chairman or vice-chairman or may be otherwise dealt with as the Board considers proper.

Report

**10.**—(1) The Water Advisory Council is hereby established and shall consist of not fewer than ten and not more than fifteen persons appointed by the Lieutenant Governor in Council, each to hold office for a term of not more than three years.

Water  
Advisory  
Council  
established

(2) The Lieutenant Governor in Council may appoint one of the members of the Council as chairman and another of the members as vice-chairman.

Chairman  
and vice-  
chairman

(3) The composition of the Council shall be such as to provide for competent and knowledgeable persons in matters relating to drinking water quality.

Members

(4) A retiring member of the Council is eligible for reappointment.

Reappoint-  
ments

(5) The members of the Council may be paid such remuneration and expenses as the Lieutenant Governor in Council from time to time may determine.

Remuneration

**11.** The Water Advisory Council, through its chairman, shall,

Duties of  
Council

(a) advise the Minister as to the results of current research related to,

(i) drinking water quality, and

(ii) contaminants and substances and their effects;  
and

(b) consider any matter affecting drinking water quality that the Council or the Minister considers advisable and advise the Minister thereon.

#### STUDIES

**12.** The Minister shall cause research to be conducted into,

Research

- (a) the causes, diagnosis, treatment, control and prevention of health effects associated with contaminants or substances;
- (b) the quality, quantity and availability of private water supplies;
- (c) the sources of surface and ground water contamination; and
- (d) methods of treating or purifying drinking water.

Testing of  
private  
water  
system

**13.** The Minister shall, at the request of any user of a private water system, cause the water to be tested in accordance with the regulations to establish contaminant and substance levels and compliance with prescribed standards.

Regulations

**14.—**(1) The Lieutenant Governor in Council may make such regulations as are advisable to protect and enhance drinking water quality throughout Ontario.

Idem

(2) Without limiting the generality of subsection (1), the Lieutenant Governor in Council may make regulations,

- (a) designating any biological, chemical or physical agents or combinations thereof as contaminants and prescribing maximum permissible contaminant levels;
- (b) designating anything as a substance, prescribing standards for substances in water and prescribing maximum permissible substance levels;
- (c) respecting procedures for water tests to be conducted under clause 3 (a) and section 13;
- (d) prescribing greater frequencies than monthly for water tests to be conducted under clause 3 (a) and prescribing the circumstances under which such more frequent tests shall be conducted.

Commence-  
ment

**15.** This Act comes into force on the day it receives Royal Assent.

Short title

**16.** The short title of this Act is the *Ontario Safe Drinking Water Act, 1989*.

# Bill 26

## **An Act to amend the Health Protection and Promotion Act, 1983**

Mrs. Grier

---

*1st Reading*      May 18th, 1989

*2nd Reading*

*3rd Reading*

*Royal Assent*



#### EXPLANATORY NOTE

The purpose of the Bill is to prohibit the sale of irradiated food and food which contains ingredients which have been irradiated.

**Bill 26**

**1989**

**An Act to amend the  
Health Protection and Promotion Act, 1983**

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

**1. The *Health Protection and Promotion Act, 1983*, being chapter 10, is amended by adding thereto the following section:**

**17a.—(1)** In this section,

Definition

“ionizing radiation” means,

- (a) gamma radiation from a Cobalt-60 or Cesium-137 source,
- (b) X-rays generated from a machine operated at or below an energy level of 5 MeV,
- (c) electrons generated from a machine operated at or below an energy level of 10 MeV, and
- (d) such other radiation as is designated by regulation.

(2) No person shall sell or offer for sale any food which has been treated with ionizing radiation.

Sale of irradiated food

(3) No person shall sell or offer for sale any food which contains any ingredient that has been treated with ionizing radiation.

Idem

**2. Subsection 95 (1) of the said Act is amended by adding thereto the following clause:**

- (da) designating levels and types of radiation for the purposes of section 17a.

**3. Subsection 99 (3) of the said Act is repealed and the following substituted therefor:**

Offence,  
sections of  
Act

(3) Any person who contravenes section 16, 17, 17a, 18, 20, 38 or 39, subsection 40 (9), subsection 41 (1), subsection 73 (2) or section 104 is guilty of an offence.

Commence-  
ment

**4. This Act comes into force on the day it receives Royal Assent.**

Short title

**5. The short title of this Act is the *Health Protection and Promotion Amendment Act, 1989*.**

# Bill 27

## **An Act to designate an Avian Emblem for Ontario**

Mr. Ballinger

---

*1st Reading*      May 23rd, 1989

*2nd Reading*

*3rd Reading*

*Royal Assent*



#### EXPLANATORY NOTE

The Bill would adopt the common loon as the avian emblem of Ontario.

**Bill 27****1989****An Act to designate an Avian Emblem for Ontario**

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

**1.** The bird known as the common loon (*Gavia immer*) is adopted as and shall be deemed to be the avian emblem of the Province of Ontario. Avian emblem of Ontario

**2.** This Act comes into force on the day it receives Royal Assent. Commencement

**3.** The short title of this Act is the *Avian Emblem Act*, 1989. Short title



# Bill 28

## **An Act to amend the Employment Standards Act**

**Mr. Johnston**  
*(Scarborough West)*

---

*1st Reading*      May 25th, 1989

*2nd Reading*

*3rd Reading*

*Royal Assent*



## EXPLANATORY NOTES

The purpose of the Bill is to amend the pregnancy leave provision of the Act and to add provisions regarding paternity leave and adoption leave. The amendments are intended to permit employees in Ontario to take advantage of the proposed expanded parental benefits under federal unemployment insurance legislation.

**SECTION 1.** Changes the heading under Part XI of the Act from "Pregnancy Leave" to "Parental Leave" to reflect the inclusion in Part XI of paternity leave and adoption leave provisions.

**SECTION 2.** Divides section 35 of the Act into two subsections for greater clarity. The prohibition against an employer dismissing an employee who is entitled to leave is expanded to cover all types of leave under Part XI of the Act.

**SECTION 3.—Subsection 1.** Amends the pregnancy leave provision in subsection 36 (1) by reducing the minimum period of employment required for eligibility for leave from twelve months and eleven weeks to six months.

**Subsection 2.** New subsection 36 (3a) is added to clarify when the pregnancy leave may commence. The provision provides that an employee may, in her notice to the employer, specify any day within the eleven-week period immediately preceding the estimated day of her delivery, regardless of whether the actual date of her delivery is before or after the estimated day of her delivery. The provision is intended to provide flexibility in situations where the child is born earlier than the estimated day of delivery.

**SECTION 4.** New section 37a provides that an employee entitled to pregnancy leave under section 36 or 37 is entitled to a further leave of twelve weeks, subject to the limitation set out in new section 37c.

New section 37b provides for a period of paternity leave of twelve weeks, subject to the limitation set out in new section 37c.

New section 37c provides that the aggregate amount of leave of absence that may be taken by any two employees under sections 37a and 37b in respect of the birth of any one child shall not exceed fourteen weeks. Subject to this limitation, the mother and father of a child are to decide how they will use the periods of leave available under sections 37a and 37b.

New section 37d provides for a period of adoption leave of twelve weeks. This is subject to the limitation that the aggregate amount of leave of absence that may be taken by any two employees under the section in respect of the adoption of any one child shall not exceed fourteen weeks.

**SECTION 5.** Section 38 of the Act is rewritten to include references to both male and female employees.

**Bill 28**

**1989**

**An Act to amend the  
Employment Standards Act**

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

**1. The heading immediately preceding section 35 of the *Employment Standards Act*, being chapter 137 of the Revised Statutes of Ontario, 1980, is struck out and the following substituted therefor:**

**PART XI**

**PARENTAL LEAVE**

**2. Section 35 of the said Act is repealed and the following substituted therefor:**

**35.—(1)** Subject to subsection (2), no employer shall terminate the employment of or lay off an employee who is entitled to a leave of absence under this Part. Prohibition

(2) An employer may require an employee who is pregnant to commence a leave of absence under section 36 at such time as the duties of her position cannot reasonably be performed by a pregnant woman or the performance of her work is materially affected by the pregnancy. Employer may require commencement of pregnancy leave

**3.—(1)** Subsection 36 (1) of the said Act is repealed and the following substituted therefor:

(1) An employee who is pregnant and who has been employed by her employer for a period of at least six months immediately preceding the estimated day of her delivery, whether such employment commenced before or after the coming into force of this subsection, shall be entitled upon her application therefor to a leave of absence of at least seventeen weeks from her employment or such shorter leave of absence as the employee may request commencing during the period Pregnancy leave

of eleven weeks immediately preceding the estimated day of her delivery.

**(2) Section 36 of the said Act is amended by adding thereto the following subsection:**

When  
pregnancy  
leave may  
commence

(3a) In giving notice under subsection (3), an employee may specify any day within the period of eleven weeks immediately preceding the estimated day of her delivery, regardless of whether the actual date of her delivery is before or after the estimated day of her delivery.

**4. The said Act is further amended by adding thereto the following sections:**

Further leave

**37a.**—(1) Subject to section 37c, an employee entitled to a leave of absence under section 36 or 37 shall be entitled upon her application therefor to a further leave of absence of at least twelve weeks from her employment or such shorter leave of absence as the employee may request commencing, as the employee elects,

- (a) on the expiry of any leave of absence from employment taken by her under section 36 or 37; or
- (b) on the day the child comes into her actual care and custody.

Notice

(2) The employee shall give her employer two weeks notice in writing of the day upon which she intends to commence her leave of absence under subsection (1).

Leave may  
be shortened

(3) An employee may, with the consent of her employer, shorten the duration of the leave of absence requested under subsection (1).

Special  
entitlement  
to leave

(4) An employee who fails to comply with subsection (2) shall nevertheless be entitled, upon application to her employer therefor, to the leave to which she is entitled under subsection (1) or such portion of it as has not yet expired at the time the application is made.

Paternity  
leave

**37b.**—(1) Subject to section 37c, an employee who has become the father of a child and who has been employed by his employer for a period of at least six months, whether such employment commenced before or after the coming into force of this subsection, shall be entitled upon his application therefor to a leave of absence of at least twelve weeks from his employment or such shorter leave of absence as the employee may request commencing, as the employee elects,



- (a) on the day the child is born;
- (b) after the birth of the child but during, or on the expiry of, any leave of absence from employment taken under this Act, an Act of the Parliament of Canada or any other Legislature, or any collective agreement, by a female employee in respect of the child; or
- (c) on the day the child comes into his actual care and custody.

(2) The employee shall give his employer two weeks notice in writing of the day upon which he intends to commence his leave of absence. Notice

(3) An employee may, with the consent of his employer, shorten the duration of the leave of absence requested under subsection (1). Leave may be shortened

(4) An employee who fails to comply with subsection (2) shall nevertheless be entitled, upon application to his employer therefor, to the paternity leave to which he is entitled under subsection (1) or such portion of it as has not yet expired at the time the application is made. Special entitlement to leave

**37c.** The aggregate amount of leave of absence from employment that may be taken by any two employees under sections 37a and 37b in respect of the birth of any one child shall not exceed fourteen weeks. Limit on aggregate leave by two employees

**37d.**—(1) Subject to subsection (5), an employee who has adopted a child under the law of any province and who has been employed by his or her employer for a period of at least six months, whether such employment commenced before or after the coming into force of this subsection, shall be entitled upon his or her application therefor to a leave of absence of at least twelve weeks from his or her employment or such shorter leave of absence as the employee may request commencing, as the employee elects, Adoption leave

- (a) on the day the child comes into the employee's actual care and custody;
- (b) at any time during, or on the expiry of, any leave of absence from employment taken under this Act, an Act of the Parliament of Canada or any other Legislature, or any collective agreement, by any other person in respect of the child; or



- (c) at any time during the ninety days immediately following the day on which the child comes into the employee's actual care and custody.

Notice

(2) The employee shall give his or her employer two weeks notice in writing of the day upon which he or she intends to commence the leave of absence.

Leave may  
be shortened

(3) An employee may, with the consent of his or her employer, shorten the duration of the leave of absence requested under subsection (1).

Special  
entitlement  
to leave

(4) An employee who fails to comply with subsection (2) shall nevertheless be entitled, upon application to his or her employer therefor, to the adoption leave to which he or she is entitled under subsection (1) or such portion of it as has not yet expired at the time the application is made.

Limit on  
aggregate  
adoption  
leave by two  
employees

(5) The aggregate amount of leave of absence from employment that may be taken by any two employees under this section in respect of the adoption of any one child shall not exceed fourteen weeks.

**5. Section 38 of the said Act is repealed and the following substituted therefor:**

Reinstatement and  
preservation  
of seniority

**38.—**(1) An employee who intends to resume his or her employment on the expiration of a leave of absence granted under this Part shall so advise his or her employer and on the employee's return to work the employer shall reinstate the employee to his or her position or provide the employee with alternative work of a comparable nature at not less than his or her wages at the time the leave of absence began and without loss of seniority or benefits accrued to the commencement of the leave of absence.

Idem

(2) Where the employer has suspended or discontinued operations during the leave of absence and has not resumed operations upon the expiry thereof, the employer shall, upon resumption of operations, reinstate the employee to his or her employment or to alternate work in accordance with an established seniority system or practice of the employer in existence at the time the leave of absence began with no loss of seniority or benefits accrued to the commencement of the leave of absence, and in the absence of such a system or practice shall reinstate the employee in accordance with subsection (1).

**6.** This Act comes into force on the day it receives Royal Assent. Commence-  
ment

**7.** The short title of this Act is the *Employment Standards Amendment Act, 1989*. Short title



# Bill 29

## **An Act to amend the Teachers' Superannuation Act, 1983**

**Mr. Cureatz**

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*1st Reading*      May 29th, 1989  
*2nd Reading*  
*3rd Reading*  
*Royal Assent*

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### EXPLANATORY NOTE

The Bill amends the Act to add a provision permitting a refund of pension contributions to be made to the personal representative of a deceased contributor where the spouse or child of the contributor cannot be found. The provision authorizes the Teachers' Superannuation Commission to make such a refund if it is satisfied that reasonable inquiries have been made to find the spouse or child and more than one year has passed since the death of the contributor. The provision is similar to section 37 of the *Public Service Superannuation Act*.

Bill 29

1989

**An Act to amend the  
Teachers' Superannuation Act, 1983**

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

**1. The *Teachers' Superannuation Act, 1983*, being chapter 84, is amended by adding thereto the following section:**

**47a.**—(1) If a spouse or child of a person who was employed in education and has died cannot be found and the Commission is satisfied that reasonable inquiries have been made to find the spouse or child and more than one year has passed since the death, the Commission may, despite any other provision of this Act, direct that the refund that would be payable out of the Fund under section 47 to the personal representative had the person died leaving no spouse and no child be paid to the personal representative upon such terms and conditions as the Commission directs.

Refund to  
personal  
representative where  
spouse or  
child  
cannot  
be found

(2) If a spouse or child referred to in subsection (1) is subsequently found and a claim is made for any amount payable under this Act, the Commission may direct that the amount, less any refund paid under subsection (1), be paid to the spouse or child, as the case may be.

Where  
spouse or  
child later  
found

**2. This Act comes into force on the day it receives Royal Assent.**

Commence-  
ment

**3. The short title of this Act is the *Teachers' Superannuation Amendment Act, 1989*.**

Short title

## APPENDIX I

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# Bill 30

## **An Act respecting Funeral Directors and Establishments**

**The Hon. W. Wrye**

*Minister of Consumer and Commercial Relations*

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*1st Reading*      June 12th, 1989

*2nd Reading*

*3rd Reading*

*Royal Assent*



## EXPLANATORY NOTES

The *Funeral Directors and Establishments Act, 1989* replaces the *Funeral Services Act* and the *Prearranged Funeral Services Act*.

Some features of the Bill are as follows:

1. Funeral establishments, funeral directors and transfer services will be licensed by the Board of Funeral Services (the Board).
2. The Board will report to the Ministry of Consumer and Commercial Relations.
3. The Board will continue to consist of funeral directors and lay people appointed by the Lieutenant Governor in Council.
4. The Board is responsible for the education, licensing and discipline of funeral directors, funeral establishments and transfer services.
5. Decisions of the Board may be appealed to The Commercial Registration Appeal Tribunal (CRAT).
6. An individual who meets the requirements of the Act will be licensed as a funeral director in one of two categories, those who perform embalming and those who choose not to perform embalming.
7. Embalming, visitation or the arranging of a funeral is only available to the public through a licensed funeral establishment.
8. A funeral establishment must be managed and directly supervised by a licensed funeral director.
9. A transfer service may only provide for the removal, transportation or delivery of remains and the filing of necessary documentation. A transfer service need not be under the direction of a licensed funeral director.
10. The Bill also provides for inspections, freezing of assets, appointment of receivers and managers and restraining and cease and desist orders.
11. Telephone and door-to-door solicitation for the sale of funeral services or supplies is prohibited.
12. The Bill provides for regulations to deal with itemized price lists and consumer information.
13. The regulations also provide authority to prohibit funeral establishments from being located on or operated in connection with cemeteries or crematoria.
14. Funeral establishments and transfer services will be required under the regulations to contribute to a compensation fund to compensate consumers in the event of a defalcation.
15. A board of trustees will administer the compensation fund.
16. All moneys received for a prepaid funeral will be held together with income accrued in trust for the beneficiary until it is dispersed in accordance with the Act.
17. All prepaid contracts may be cancelled at any time prior to the services being delivered. If the contract is cancelled within thirty days of signing, no administration fee may be charged.

Bill 30

1989

## An Act respecting Funeral Directors and Establishments

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

### 1. In this Act,

Definitions

“beneficiary” means a person for whom funeral services or supplies, or both, are to be provided under a contract or prepaid contract;

“Board” means the Board of Funeral Services;

“cemetery” means a cemetery within the meaning of the *Cemeteries Act, 1989*; 1989, c. ...

“Compensation Fund” means the Prepaid Funeral Services Compensation Fund established under the regulations;

“contract” means an agreement wherein a person provides or agrees to provide funeral services or supplies, or both, and includes prepaid contracts;

“depository” means a chartered bank, loan or trust company, Province of Ontario Savings Office or a credit union as defined in the *Credit Unions and Caisses Populaires Act*;

R.S.O. 1980,  
c. 102

“Director” means a director appointed under the *Ministry of Consumer and Commercial Relations Act*;

R.S.O. 1980,  
c. 274

“disbursements” means payments actually made by a funeral director or a person who operates a funeral establishment on behalf of a purchaser of funeral services or supplies, or both;

“embalming” means the preservation and disinfection of all or part of a dead human body by any means other than by refrigeration;

“equity share” means a share of a class of shares that carries a voting right either under all circumstances or under some circumstances that have occurred and are continuing;

“funeral” means a rite or ceremony in connection with the death of a person where the body is present;

“funeral director” means an individual who provides or directs the providing of funeral services;

“funeral establishment” means premises where funeral services are supplied;

1989, c. ... “funeral services” means the care and preparation of dead human bodies and the co-ordination of rites and ceremonies with respect to dead human bodies, but does not include services provided by a cemetery owner under the *Cemeteries Act, 1989*;

“funeral supplies” means goods that are used in connection with the care and preparation of dead human bodies or the disposition of dead human bodies;

“income” means the interest or money earned, including the compounding thereof, by the investment of funds received under a prepaid contract;

“licence” means a licence issued under this Act and “licensed” has a corresponding meaning;

“Minister” means the Minister of Consumer and Commercial Relations;

“prearrangement” means an arrangement for the provision of specific funeral services, supplies or transportation of a dead human body on the death of a person who is alive at the time the arrangement is made;

“prepaid contract” means an agreement whereby a person contracts with a purchaser to provide or make provision for funeral services, funeral supplies, or both, or for the transportation of a dead human body, including disbursements, upon the death of a beneficiary, if any payment for the contract is made prior to the death of the beneficiary or the purchaser enters into an insurance contract or plan under which a licensee is to receive directly or indirectly the proceeds of the insurance policy upon the death of the beneficiary;



“prepayment” means the payment or the guarantee of a payment pursuant to a prepaid contract;

“prepayment funds” means the money deposited in trust under the provisions of this Act and the income therefrom and includes the proceeds of an insurance policy received by a licensee;

“prescribed” means prescribed by the regulations;

“Registrar” means the Registrar of the Board;

“regulations” means regulations made under this Act;

“transfer service” means a service to the public with respect to the disposition of dead human bodies, including the transportation of dead human bodies and the filling out of the necessary documentation with respect to the disposition of dead human bodies;

“Tribunal” means The Commercial Registration Appeal Tribunal.

**2.—**(1) There shall be a Registrar appointed by the Board for the purposes of this Act. Registrar

(2) The Registrar may exercise the powers and shall perform the duties conferred or imposed on the Registrar by or under this Act under the supervision of the Board. Powers of Registrar

(3) The Registrar shall maintain one or more registers in which is entered every person who is licensed under this Act, identifying the conditions and limitations attached to the licence, and shall note on the register every revocation, suspension and cancellation or termination of a licence and such other information as the Discipline Committee directs. Registers

(4) Any person has the right, during normal business hours, to inspect the registers maintained by the Registrar. Inspection

(5) The Registrar shall provide to any person, upon payment of a reasonable charge therefor, a copy of any part of the registers maintained by the Registrar. Copies

**3.—**(1) The Board of Funeral Services, a body corporate, is continued as a corporation without share capital. Board continued

(2) The principal object of the Board is to regulate the practices of funeral directors and persons who operate funeral establishments and transfer services in accordance with this Principal object



Act, the regulations and the by-laws in order that the public interest may be served and protected.

Additional  
objects

(3) For the purpose of carrying out its principal object, the Board has the following additional objects:

1. To establish, maintain and develop standards of knowledge and skill among funeral directors and persons who operate funeral establishments and transfer services.
2. To establish, maintain and develop standards of qualification and standards of practice for funeral directors and persons who operate funeral establishments and transfer services.
3. To establish, maintain and develop standards of professional ethics among funeral directors and persons who operate funeral establishments and transfer services.
4. To administer the Compensation Fund.
5. To oversee and inspect trust accounts that funeral establishments and transfer services are required by law to establish or maintain.
6. To mediate complaints between consumers and licensees.
7. To establish and develop standards for funeral establishments.
8. To perform such other duties and exercise such other powers as are imposed or conferred on the Board by or under any Act.

Capacity and  
powers of  
Board

(4) For the purpose of carrying out its objects, the Board has the capacity and the powers of a natural person.

Duties of  
Board

(5) The Board shall,

- (a) review the operation of this Act and the regulations and make recommendations to the Minister thereon;
- (b) approve or set courses of study and examinations for the qualification of applicants for licences; and
- (c) carry out such duties as are prescribed.

**4.—**(1) The Board shall be composed of the following members appointed by the Lieutenant Governor in Council: Composition

1. A prescribed number of funeral directors, one of whom,
  - i. is not licensed to operate a funeral establishment,
  - ii. is not a director of a corporation that is licensed to operate a funeral establishment, or
  - iii. does not direct the operation of a funeral establishment.
2. A prescribed number of persons who are not funeral directors.

(2) The members of the Board shall be appointed to hold office for a term not exceeding three years and may be reappointed for further successive terms, but shall not be appointed or reappointed for more than six successive years. Term of office

(3) A vacancy on the Board caused by the death, resignation, removal or incapacity to act of a member may be filled by the appointment by the Lieutenant Governor in Council of a person to hold office for the unexpired portion of the term of office of such member. Vacancy

(4) Five members of the Board, at least two of whom shall be members appointed under paragraph 2 of subsection (1), constitute a quorum. Quorum

(5) The Board shall appoint a chairperson and vice-chairperson and such other officers as are considered necessary from among the members of the Board. Officers

- (6) The members of the Board, Expenses and remuneration of members of Board
- (a) appointed under paragraph 1 of subsection (1) shall be paid by the Board such expenses and remuneration as are prescribed; and
  - (b) appointed under paragraph 2 of subsection (1) shall be paid, out of the moneys appropriated therefor by the Legislature, such expenses and remuneration as are determined by the Lieutenant Governor in Council.

Staff

(7) The Board may employ such employees and retain such assistance as is necessary to perform the work of the Board and may determine their salary, remuneration and terms and conditions of employment.

Meetings of  
Board

(8) The Board shall meet at least four times a year.

Continuation  
of Board  
members

(9) The members of the Board who were in office immediately before the coming into force of this Act are continued in office until the expiration of their terms or until their offices otherwise become vacant.

Annual  
report

(10) The Board shall deliver to the Minister each year an annual report on the affairs of the Board and on the operation of the Compensation Fund.

Idem

(11) The Minister shall submit the annual report to the Lieutenant Governor in Council and shall then lay the report before the Assembly if it is in session or, if not, at the next session.

Powers of  
Minister

5. The Minister may, in addition to any other powers and duties conferred on the Minister by or under any Act,

- (a) review the activities of the Board;
- (b) request the Board to undertake activities that, in the opinion of the Minister, are necessary and advisable to carry out the intent of this Act;
- (c) advise the Board with respect to the implementation of this Act and the regulations and with respect to the methods used or proposed to be used by the Board to implement policies and to enforce its by-laws and procedures.

By-laws

6.—(1) The Board may pass by-laws relating to the administrative and domestic affairs of the Board not inconsistent with this Act and the regulations and, without limiting the generality of the foregoing,

- 1. specifying the seal of the Board;
- 2. providing for the execution of documents by the Board;
- 3. respecting banking and finance;

4. fixing the financial year of the Board and providing for the audit of the accounts and transactions of the Board;
5. respecting the calling, holding and conducting of meetings of the Board and committees of the Board and the duties of members of the Board and committees of the Board;
6. providing for a code of ethics;
7. delegating to the Executive Committee such powers and duties of the Board as are set out in the by-laws, other than the power to make, amend or revoke regulations and by-laws;
8. respecting the calling, holding and conducting of meetings of licensees;
9. providing for the use of forms;
10. providing procedures for the making, amending and revoking of the by-laws;
11. respecting management of the property of the Board;
12. providing for the appointment, composition, powers and duties of committees in addition to those committees established under subsection 7 (1);
13. respecting the application of the funds of the Board and the investment and reinvestment of any of its funds not immediately required, and for the safe-keeping of its securities;
14. respecting membership of the Board in other organizations, the payment of annual assessments and provision for representatives at meetings;
15. respecting the appointment of inspectors by the Registrar for the purposes of this Act;
16. providing for meetings of the Board and committees, except in a proceeding in respect of a licence, by means of conference telephone or other communications equipment by means of which all persons participating in the meeting can hear each other, and a member of the Board or committee participating in a meeting in accordance with such by-law



shall be deemed to be present in person at the meeting;

17. providing that the Board or a committee may act upon a resolution consented to by the signatures of all members of the Board or the committee except in a proceeding in respect of a licence, and a resolution so consented to in accordance with such a by-law is as valid and effective as if passed at a meeting of the Board or the committee duly called, constituted and held for that purpose;
18. providing for the payment of necessary expenses of the Board and committees of the Board in the conduct of their business;
19. providing for the Board to enter into arrangements on behalf of licensees with respect to the bonding of licensees and requiring the payment and remittance of premiums in connection therewith, setting levies that shall be paid by licensees and exempting licensees or any class thereof from all or any part of such levy;
20. providing for the establishment of group insurance plans, other than for professional liability, in which licensees may participate on a voluntary basis;
21. regarding such other matters as are entailed in carrying on the business of the Board.

Distribution  
of by-laws

(2) A copy of the by-laws made under subsection (1) and amendments thereto,

- (a) shall be forwarded to the Minister;
- (b) shall be forwarded to each licensee; and
- (c) shall be available for public inspection in the office of the Board.

Minister may  
revoke or  
amend  
by-laws

(3) At any time before or after receiving a copy of a by-law made under subsection (1), the Minister may, by an order in writing, revoke or amend the by-law.

Idem

(4) Despite subsection (3), a by-law is effective until so revoked or amended by the Minister and no act done or right acquired under any such by-law before revocation or amendment by the Minister is prejudicially affected by the revocation or amendment.

7.—(1) The Board shall establish and appoint the following committees:

Establish-  
ment of  
committees

1. Executive Committee.
2. Licensing Committee.
3. Complaints Committee.
4. Discipline Committee.
5. Compensation Fund Committee.

(2) The Board may establish such other committees in addition to those established under subsection (1) as the Board from time to time considers necessary.

Idem

(3) If one or more vacancies occur in the membership of a committee, the members remaining constitute the committee so long as their number is not fewer than a quorum of the committee.

Vacancies

8.—(1) The Executive Committee shall be composed of three persons who are members of the Board, one of whom shall be a person appointed under paragraph 2 of subsection 4 (1).

Executive  
Committee

(2) Two members of the Executive Committee constitute a quorum.

Quorum

(3) The Board may delegate to the Executive Committee the authority to exercise any power or perform any duty of the Board, other than to make, amend or revoke a by-law.

Powers of  
Executive  
Committee

(4) Subject to ratification by the Board at its next ensuing meeting, the Executive Committee may take action upon any other matter that requires immediate attention between meetings of the Board, other than to make, amend or revoke a by-law.

Urgent  
matters

9.—(1) The Licensing Committee shall be composed of three persons who are members of the Board, one of whom shall be a person appointed under paragraph 2 of subsection 4 (1).

Licensing  
Committee

(2) The Board shall name one member of the Licensing Committee to be chairperson.

Chairperson

(3) Two members of the Licensing Committee constitute a quorum.

Quorum

Complaints  
Committee

**10.**—(1) The Complaints Committee shall be composed of three persons who are members of the Board, one of whom shall be a person appointed under paragraph 2 of subsection 4 (1).

## Idem

(2) No person who is a member of the Discipline Committee shall be a member of the Complaints Committee.

## Chairperson

(3) The Board shall name one member of the Complaints Committee to be chairperson.

## Quorum

(4) Two members of the Complaints Committee constitute a quorum.

Discipline  
Committee

**11.**—(1) The Discipline Committee shall be composed of four members of the Board, two of whom shall be persons appointed under paragraph 2 of subsection 4 (1).

## Chairperson

(2) The Board shall name one member of the Discipline Committee to be chairperson.

## Quorum

(3) Three members of the Discipline Committee constitute a quorum.

## Majority vote

(4) All disciplinary decisions of the Discipline Committee require the vote of a majority of the members of the Discipline Committee present at the hearing.

Disability of  
member

(5) If the Discipline Committee commences a hearing and a member of the Discipline Committee is unable to continue to act, the remaining members may complete the hearing despite the absence of the member.

Compensation Fund  
Committee

**12.**—(1) The Compensation Fund Committee shall be composed of three persons who are members of the Board, two of whom shall be persons appointed under paragraph 2 of subsection 4 (1).

## Chairperson

(2) The Board shall name one member of the Compensation Fund Committee to be chairperson.

## Quorum

(3) Two members of the Compensation Fund Committee constitute a quorum.

Powers and  
duties of  
Licensing  
Committee

**13.**—(1) The Licensing Committee shall consider all matters that are referred to it by the Registrar under section 22.

## Recommendations

(2) The Licensing Committee may make recommendations to the Registrar with respect to,



- (a) the eligibility of an applicant for a licence or a renewal of a licence;
- (b) issuing or refusing to issue a licence to an applicant for a licence or a renewal of a licence;
- (c) issuing a licence or a renewal of a licence to an applicant subject to conditions;
- (d) suspending or revoking the licence of a licensee;
- (e) the desirability of requiring an applicant for a licence or a renewal of a licence or a licensee to take and pass such additional training or part thereof that may be prescribed; or
- (f) exempting an applicant for a license or a renewal of a licence or a licensee from any licensing requirement.

**14.—**(1) The Complaints Committee shall consider and investigate complaints regarding the conduct or actions of any licensee, but no action shall be taken by the Complaints Committee under subsection (2) unless,

Duties of  
Complaints  
Committee

- (a) a written complaint has been filed with the Registrar and the licensee whose conduct or actions are being investigated has been notified of the complaint and given at least two weeks in which to submit in writing to the Committee any explanations or representations the licensee may wish to make concerning the matter; and
- (b) the Committee has examined or has made every reasonable effort to examine all records and other documents relating to the complaint.

(2) The Complaints Committee in accordance with the information it receives may,

Idem

- (a) consider all or part of the matter;
- (b) direct that all or part of the matter be referred to the Discipline Committee; and
- (c) subject to subsection (9), take or recommend such action that it considers appropriate in the circumstances and that is not inconsistent with this Act, the regulations or the by-laws.



Decisions  
and reasons

(3) The Complaints Committee shall advise the Registrar in writing of the action it proposes to take or recommend and its reasons therefor.

Notice

(4) Subsection (3) does not apply to a matter that is referred to the Discipline Committee.

Hearing

(5) The Complaints Committee is not required to hold a hearing or to afford any person an opportunity for a hearing or to make oral submissions before it prior to it taking action or making a recommendation under this section.

Notice

(6) The Registrar shall send to the complainant and to the person complained against by prepaid first class mail a copy of the proposal of the Complaints Committee and its reasons therefor, if any, together with notice that informs the person to whom it is sent that the person is entitled to a hearing by the Tribunal if the person mails or delivers to the Registrar and to the Tribunal, within fifteen days after the notice is served on the person, notice in writing requiring a hearing and the person may so require such a hearing.

No hearing

(7) If a complainant or the person complained against does not require a hearing by the Tribunal, the Complaints Committee may carry out the proposal stated in the notice to the complainant or the person complained against.

Hearing

(8) If the complainant or the person complained against requires a hearing, the Tribunal shall appoint a time for and hold a hearing.

Order

(9) After holding a hearing, the Tribunal may by order direct the Complaints Committee to carry out the proposal or refrain from carrying out the proposal and to take such action as the Tribunal considers the Complaints Committee ought to take in accordance with this Act and the regulations and, for such purposes, the Tribunal may substitute its opinion for that of the Complaints Committee.

Conditions

(10) The Tribunal may attach such conditions to its order as it considers proper to give effect to the purposes of this Act.

Parties

(11) The Registrar, the person who required the hearing and such other persons as the Tribunal may specify are parties to proceedings before the Tribunal under this section.

Reference by  
Board or  
Executive  
Committee

**15.** Despite subsection 14 (1), the Board or the Executive Committee may direct the Discipline Committee to hold a hearing and determine any allegation of professional misconduct or incompetence on the part of a funeral director.

**16.—(1) The Discipline Committee shall,**Duties of  
Discipline  
Committee

- (a) when so directed by the Board, Executive Committee or Complaints Committee, hear and determine allegations of professional misconduct or incompetence against a funeral director;
- (b) hear and determine matters referred to it by the Board, Registrar, Executive Committee or Complaints Committee under this Act with respect to funeral directors; and
- (c) perform such other duties as are assigned to it by the Board.

**(2) A funeral director may be found guilty of professional misconduct by the Discipline Committee if,**Professional  
misconduct

- (a) the funeral director has been found guilty of an offence that is relevant to the funeral director's suitability to practise as a funeral director, upon proof of such conviction; or
- (b) the funeral director has been guilty in the opinion of the Discipline Committee of professional misconduct as prescribed.

**(3) The Discipline Committee may find a funeral director to be incompetent if in its opinion,**

Incompetence

- (a) the funeral director has displayed in the providing or in directing the providing of funeral services or funeral supplies or in performing or supervising the performing of an embalming, a lack of knowledge, skill or judgment of a nature or to an extent that demonstrates the funeral director is unfit to continue as a funeral director;
- (b) the funeral director is suffering from a physical or mental condition or disorder of a nature and extent that makes it desirable in the interest of the public that the funeral director no longer be permitted to continue as a funeral director.

**(4) If the Discipline Committee finds a funeral director guilty of professional misconduct or incompetence, it may by order do any of the following things or any combination of the following things:**Powers of  
Discipline  
Committee

1. Revoke the licence of the funeral director.

2. Suspend the licence of the funeral director for a stated period.
3. Impose restrictions on the licence of the funeral director for a period and subject to the conditions specified by the Discipline Committee.
4. Reprimand the funeral director and direct that the fact of the reprimand be recorded on the applicable register.
5. Impose such fine as the Discipline Committee considers appropriate to a maximum of \$10,000 to be paid by the funeral director to the Treasurer of Ontario for payment into the Consolidated Revenue Fund.
6. Direct that the imposition of a penalty be suspended or postponed for the period and upon the terms specified by the Discipline Committee.

Costs

(5) If the Discipline Committee is of the opinion that the commencement of the proceedings was unwarranted, the Committee may order that the Board reimburse the funeral director for the funeral director's costs or such portion thereof as the Discipline Committee fixes.

Stay on  
appeal for  
incompetence

(6) If the Discipline Committee revokes, suspends or restricts a licence on the grounds of incompetence, the decision takes effect immediately despite the fact that an appeal is taken from the decision, unless the court to which the appeal is taken otherwise orders and, where the court is satisfied that it is appropriate in the circumstances, the court may so order.

Stay on  
appeal for  
professional  
misconduct

(7) If the Discipline Committee revokes, suspends or restricts a licence on grounds other than for incompetence, the order does not take effect until the time for appeal from the order has expired without an appeal being taken or, if taken, the appeal has been disposed of or abandoned, unless the Discipline Committee otherwise orders, and, where the Committee considers that it is appropriate for the protection of the public, the Committee may so order.

Service of  
decision of  
Discipline  
Committee

(8) If the Discipline Committee finds a funeral director guilty of professional misconduct or incompetence, a copy of the decision shall be served upon the person complaining in respect of the conduct or action of the funeral director.

Continuation  
on expiry of  
Committee  
membership

(9) If a proceeding is commenced before the Discipline Committee and the term of office on the Board or on the



Committee of a member sitting for the hearing expires or is terminated before the proceeding is disposed of but after evidence has been heard, the member shall be deemed to remain a member of the Discipline Committee for the purpose of completing the disposition of the proceeding in the same manner as if his or her term of office had not expired or been terminated.

**17.—(1)** In proceedings before the Discipline Committee, the Board and the funeral director whose conduct is being investigated in the proceedings are parties to the proceedings.

Parties to  
discipline  
proceedings

(2) A funeral director whose conduct is being investigated in proceedings before the Discipline Committee shall be afforded an opportunity to examine before the hearing any written or documentary evidence that will be produced or any report the contents of which will be given in evidence at the hearing.

Examination  
of  
documentary  
evidence

(3) Members of the Discipline Committee holding a hearing shall not have taken part before the hearing in any investigation of the subject-matter of the hearing other than as a member of the Board considering the referral of the matter to the Discipline Committee or at a previous hearing of the Committee.

Members  
holding  
hearing not  
to have  
taken part in  
investigation,  
etc.

(4) Members of the Discipline Committee shall not communicate directly or indirectly in relation to the subject-matter of the hearing with any person or with any party or representative of a party except upon notice to and opportunity for all parties to participate.

No  
communi-  
cation

(5) The Discipline Committee may seek legal advice from an adviser independent from the parties and, in such case, the nature of the advice shall be made known to the parties in order that they may make submissions as to the law.

Advice

(6) The oral evidence taken before the Discipline Committee shall be recorded and, if so required, copies or a transcript thereof shall be furnished only to the parties at the cost to the parties.

Recording of  
evidence

(7) Documents and things put in evidence at a hearing of the Discipline Committee shall, upon the request of the person who produced them, be released to the person by the Committee within a reasonable time after the matter in issue has been finally determined.

Release of  
documentary  
evidence



Appeal to  
Tribunal

**18.**—(1) A party to proceedings before the Discipline Committee may appeal from its decision or order to the Tribunal.

Application

(2) Subsections 14 (6) to (11) apply with necessary modifications to an appeal to the Tribunal from a decision or order of the Discipline Committee.

Licence  
required

**19.**—(1) No person shall act or imply that the person is available to act as a funeral director unless the person is licensed to do so.

Idem

(2) No person shall operate or imply that the person is available to operate a funeral establishment unless the person is licensed to do so.

Idem

(3) No person shall operate or imply that the person is available to operate a transfer service unless,

(a) the person is licensed to do so; or

(b) the person is licensed to operate a funeral establishment and the transfer service is operated as part of the normal operation of the funeral establishment.

Idem

(4) No person other than a funeral director who is licensed to do so shall perform or imply that the person is available to perform embalming.

Place of  
business

(5) No person shall operate a funeral establishment except at a place that is named in the licence of the person.

Funeral  
services

(6) No funeral director shall offer funeral services except through an operator of a funeral establishment.

Idem

(7) No funeral director shall offer funeral services to the public except through an operator of a funeral establishment who is licensed to do so.

Funeral  
establishment

(8) No operator of a funeral establishment shall employ a person as a funeral director unless the person is licensed as a funeral director.

Direction and  
management

(9) Every operator of a funeral establishment shall ensure that the funeral establishment is managed and directly supervised by a funeral director who is responsible for the conduct or misconduct of any person to whom the funeral director delegates responsibilities.

(10) No funeral director shall manage and directly supervise the operation of more than one funeral establishment except as prescribed. Idem

(11) Each corporation that is licensed to operate a funeral establishment shall ensure that at least one of the directors of the corporation is a funeral director. Corporation

(12) Subsections (1) and (4) do not apply, Exceptions

(a) to a student in a training program who is working under the supervision and in the presence of a funeral director; or

(b) to a student who is enrolled in a recognized course of funeral services education and who is working under the supervision and in the presence of the instructor of the course.

(13) Subsection (4) does not apply to a person employed in a recognized school of medicine or anatomy while so employed. Idem

**20.—**(1) A person may apply to the Registrar for a licence to operate a funeral establishment or to operate a transfer service. Application

(2) A person who has successfully completed the educational requirements that are prescribed may apply to the Registrar for a licence as a funeral director. Idem

(3) An applicant is entitled to a licence or a renewal of a licence as a funeral director or to operate a funeral establishment or to operate a transfer service except if, Requirement

(a) the applicant cannot reasonably be expected to be financially responsible in the conduct of the applicant's business;

(b) the past and present conduct of the applicant, the officers or directors of the applicant or persons holding more than 10 per cent of the equity shares of the applicant affords reasonable grounds for belief that the applicant will not operate in accordance with the law and with integrity and honesty;

(c) the applicant or an employee or agent of the applicant makes a false statement or provides a false statement in an application for a licence;

- (d) the applicant is carrying on activities that are, or will be if the applicant is licensed, in contravention of this Act or the regulations;
- (e) the applicant will, if licensed, be carrying on activities under this Act and the regulations that are in contravention of another Act or a municipal by-law; or
- (f) in the case of a corporation that operates a funeral establishment, no director of the corporation is a funeral director.

## Issue

(4) The Registrar shall issue a licence as a funeral director, to operate a funeral establishment or to operate a transfer service, as the case requires, to every applicant therefor who pays the fee that is prescribed, complies with the regulations and is not disentitled under subsection (3).

## Conditions

(5) A licence is subject to such conditions as may be consented to by the applicant, imposed by the Tribunal or prescribed.

## Refusal to issue

**21.**—(1) Subject to section 22, the Registrar may refuse to issue a licence to an applicant if the applicant is not entitled to a licence under subsection 20 (3).

## Refusal to renew

(2) Subject to section 22, the Registrar may refuse to renew or may suspend or revoke a licence,

- (a) for any reason that would disentitle the licensee to a licence under subsection 20 (3) if the licensee were an applicant;
- (b) if the licensee is in breach of a condition of the licence; or
- (c) if the licensee is a corporation and the shareholders of the corporation have changed in the manner and to the extent prescribed.

## Proposal

**22.**—(1) If the Registrar proposes to refuse to issue or renew a licence, proposes to issue a licence subject to conditions or proposes to suspend or revoke a licence, the Registrar shall serve notice of the proposal, together with written reasons therefor, on the applicant or the licensee.

## Notice

(2) A notice under subsection (1) shall inform the applicant or licensee that the applicant or licensee is entitled to a hearing by the Tribunal if the applicant or licensee mails or deliv-



ers to the Registrar and to the Tribunal, within fifteen days after the notice is served on the applicant or licensee, notice in writing requiring a hearing and the applicant or licensee may so require such a hearing.

(3) If an applicant or registrant does not require a hearing by the Tribunal, the Registrar may carry out the proposal stated in the notice to the applicant or licensee. No hearing

(4) If an applicant or registrant requires a hearing, the Tribunal shall appoint a time for and hold a hearing. Hearing

(5) After holding a hearing, the Tribunal may by order direct the Registrar to carry out the proposal or refrain from carrying out the proposal and to take such action as the Tribunal considers the Registrar ought to take in accordance with this Act and the regulations and for such purposes the Tribunal may substitute its opinion for that of the Registrar. Order

(6) The Tribunal may attach such conditions to its order or to the licence as it considers proper to give effect to the purposes of this Act. Conditions

(7) The Registrar, the applicant or licensee who has required the hearing and such other persons as the Tribunal may specify are parties to proceedings before the Tribunal under this section. Parties

(8) The Registrar may cancel a licence upon the request in writing of the licensee and the surrender of the licence by the licensee. Cancellation

(9) The Registrar may refer any matter that deals with licensing to the Licensing Committee for their recommendations. Referral

**23.—**(1) A person who is refused a licence or who is refused a renewal of a licence may apply in writing to the Registrar for the issuance of a licence only if at least one year has passed since the refusal. Application

(2) A person whose licence is revoked under this Act or whose registration was cancelled under a predecessor of this Act may apply in writing to the Registrar for the issuance of a licence only if at least one year has passed since the revocation or cancellation. Idem

(3) A person whose licence is suspended under this Act or whose registration was suspended under a predecessor of this Act, for more than one year, may apply in writing to the Reg- Idem



istrar for the removal of the suspension only if at least one year has passed since the suspension.

Temporary  
order

**24.**—(1) If the Registrar proposes to suspend or revoke a licence, the Registrar may, if the Registrar considers it to be necessary in the public interest, by order, temporarily suspend the licence and the order shall take effect immediately.

Hearing

(2) If a hearing is required with respect to a proposal to suspend or revoke a licence, the order expires fifteen days after the date of the notice requiring the hearing unless the hearing is commenced, in which case the Tribunal holding the hearing may extend the time of expiration until the hearing is concluded.

No licence

(3) If the Registrar by order temporarily suspends a licence under this section or subsection 22 (2), the licensee shall during the term of the suspension be considered not to be licensed under this Act.

Stay

R.S.O. 1980,  
c. 274

**25.** Despite the fact that a licensee appeals from an order of the Tribunal under section 11 of the *Ministry of Consumer and Commercial Relations Act*, the order takes effect immediately but the Tribunal may grant a stay until the disposition of the appeal.

Continuation

**26.** If in the time prescribed therefor or, if no time is prescribed before the expiry of the licensee's licence, a licensee applies in the manner prescribed for renewal of the licence and pays the fee prescribed, the licence shall be deemed to continue,

(a) until the renewal is granted; or

(b) if the licensee is served with a notice that the Registrar proposes to refuse to grant the renewal, until the time for giving notice requiring a hearing has expired and, if a hearing is required, until the Tribunal has made its order.

Advertising

**27.**—(1) If the Director or the Registrar believes, on reasonable and probable grounds, that a person licensed under this Act has made a false or misleading public representation or that a representation is in contravention of this Act or the regulations, the Director or the Registrar shall order the person to stop making the representation and in the order shall set out the reasons for the order.

(2) A person who receives an order under subsection (1) shall immediately comply with the order and shall refrain from making the representation, in any form, in the future. Compliance with order

(3) Any person who receives an order under subsection (1) may appeal the order to the Tribunal. Appeal

(4) The Tribunal may issue a stay of any order made by the Registrar under subsection (1). Stay of order

**28.** If a person is entitled to the repayment of money paid for or on account of funeral services, the operator of the funeral establishment, the funeral director who managed or manages the operation of the funeral establishment and any funeral director in the employ of the operator of the funeral establishment who received the money or any part thereof are liable jointly and severally with any other person who is liable for the repayment of the money. Repayment

**29.** A licence is not required with respect to rites and ceremonies traditionally provided at a place of worship. Place of worship

**30.—**(1) No person other than a person who is licensed to operate a funeral establishment or a transfer service and who is a participant in good standing in the Compensation Fund shall enter into or offer to enter into a prepaid contract with a purchaser. Prepaid contracts

(2) Subsection (1) does not apply to a person selling funeral supplies under the authority of the *Cemeteries Act, 1989*. Idem 1989, c. ...

**31.—**(1) No licensee shall enter into a prepaid contract that contains a provision for the payment of interment rights in a cemetery lot. Contracts

(2) All goods or services for which a licensee accepts payment in respect of one beneficiary shall be included in one prepaid contract. One contract

(3) No licensee shall enter into a prepaid contract that guarantees the price of any goods or services in the contract unless the price of all goods and services included in the contract are guaranteed. Guarantee

**32.—**(1) Prior to the death of the beneficiary, the purchaser of a contract may cancel the contract at any time except if the contract provides otherwise. Cancellation

Idem (2) Prior to the death of the beneficiary but after the death of the purchaser, the beneficiary or the beneficiary's personal representative may cancel the contract at any time.

Idem (3) After the death of the beneficiary, only the beneficiary's personal representative may at any time cancel the contract prior to the delivery of all the services contracted for.

Idem (4) Subsections (1), (2) and (3) apply to contracts entered into before this Act comes into force.

Prearrangement fees **33.** No person shall charge or accept any payment with respect to a prearrangement.

Trust **34.**—(1) Every person who receives a payment under a prepaid contract shall hold the amount of the payment together with all income accrued thereon in trust until it is disbursed in accordance with this Act and the regulations.

Cancellation (2) If a prepaid contract is cancelled, the person holding the funds in trust under the contract shall forthwith pay the funds and all income accrued thereon to,

(a) if the prepaid contract is cancelled prior to the death of the beneficiary, the purchaser or the person set out in the contract;

(b) if the prepaid contract is cancelled prior to the death of the beneficiary but after the death of the purchaser, the beneficiary; or

(c) if the prepaid contract is cancelled after the death of the beneficiary, the estate of the beneficiary.

Deductions (3) If a prepaid contract is cancelled after thirty days of the entering into of the contract, the person paying under subsection (2) may deduct from the amount paid such fees as are prescribed.

Application (4) Subsection (1) does not apply to a payment made to an insurer under an insurance contract or plan.

Repayment **35.**—(1) If a prepaid contract is fulfilled, the balance, if any, of the prepayment funds that are in excess of the cost of delivering the services and supplies contracted for shall be paid to the beneficiary's estate forthwith despite any contrary provision in the contract.

Costs (2) The cost of delivering the services and supplies required under a prepaid contract shall not exceed the amount that



would otherwise be charged for the same services and supplies if there had not been prepayment.

**36.**—(1) A prepaid contract is not enforceable by an operator of a funeral establishment or transfer service unless, Contract requirements

- (a) it is written, signed by both parties and complies with the regulations;
- (b) it sets out the purchaser's cancellation rights under this Act; and
- (c) the owner delivers a signed copy of the contract to the purchaser at the time the contract is made.

(2) An operator of a funeral establishment or transfer service who receives money under a contract that is not enforceable because of the application of this section shall refund to the purchaser, immediately upon written demand, with interest at the prescribed rate, all money received. Refund with interest

(3) Subsection (2) does not apply after the supplies and services have been provided under the contract. Exception

**37.** Every licensee shall make such information as is prescribed available to the public in the manner and form prescribed. Public information

**38.**—(1) No person shall contact, in any way, a person in a hospital, nursing home or such other institution as is prescribed for the purpose of suggesting that a contract be made. Soliciting prohibited

(2) No person shall contact, by telephone or in person, a person for the purpose of suggesting that a contract be made. Idem

(3) This section does not prohibit, Exception

- (a) a contact made at the request of the person being contacted; or
- (b) a contact with a licensee.

**39.**—(1) No person shall operate a funeral establishment or transfer service in conjunction with the owner of a cemetery or crematorium in a manner that is prescribed. Prohibition

(2) No person shall operate a funeral establishment or transfer service from locations that are prescribed. Idem



Restraining  
order

**40.**—(1) If the Director or the Board is of the opinion that a person is not complying with this Act or the regulations, despite the imposition of a penalty in respect of the non-compliance and despite the fact that another remedy may be available, the Director or the Board may apply to a judge of the High Court for an order directing the person to comply.

Idem

(2) Upon an application under subsection (1), the judge may make the order applied for or such other order as the judge thinks appropriate.

Idem

(3) An appeal lies to the Divisional Court from an order made under subsection (2).

Freezing  
assets

**41.**—(1) If the Director has reasonable and probable grounds to believe that a licensee is doing or is about to do something that will jeopardize the public interest, the Director may direct any person holding, having on deposit or controlling assets of the licensee or trust funds under the control of the licensee to hold the assets or trust funds until further instructions are received from the Director to release a particular asset or trust fund from the direction.

Scope of  
direction

(2) In the case of a bank or a corporation, a direction under subsection (1) applies only to the offices, branches or agencies thereof named in the direction.

Application  
for directions

(3) Any person named in a direction issued under subsection (1), if in doubt as to the application of the direction to particular assets or trust funds, may apply to the Director for an order of clarification.

Revocation  
or  
amendment  
of direction

(4) On an application of a licensee or any other person having an interest therein, the Director may make an order on such conditions as are set out in the order revoking the direction or consenting to the release of a particular asset or trust fund from the direction.

Appeal

(5) A person affected by a direction or order of the Director made under this section or a refusal to make an order may appeal to the Tribunal.

Application

(6) Subsections 14 (6) to (11) apply with necessary modifications to an appeal to the Tribunal from a direction or order of the Director.

Inspectors

**42.**—(1) The Registrar or a Director may appoint inspectors for the purpose of determining whether there is compliance with this Act and the regulations.

(2) An inspector exercising a power under this Act shall, on request, produce his or her certificate of appointment. Certificate of appointment

**43.—**(1) For the purpose of ensuring compliance with this Act and the regulations, an inspector may, Inspections

- (a) enter any place at any reasonable time;
- (b) request the production for inspection of documents or things that may be relevant to the inspection;
- (c) inspect and, upon giving a receipt therefor, remove, for the purpose of making copies or extracts, documents or things relevant to the inspection;
- (d) inquire into negotiations, transactions, loans or borrowings of a licensee and into assets owned, held in trust, acquired or disposed of by a licensee that are relevant to an inspection;
- (e) conduct such tests as are reasonably necessary to determine this Act and the regulations; and
- (f) remove materials or substances for examination or test purposes subject to the licensee or other occupant of the premises being notified thereof.

(2) Subsection (1) does not apply to confer a power of entry to a room actually used as a dwelling without the consent of the occupier. Entry to dwellings

(3) A justice of the peace may issue a warrant authorizing the person named in the warrant, Warrant

- (a) to do anything set out in clause (1) (a), (c), (e) or (f);
- (b) to search for and seize any document or thing relevant to the inspection; or
- (c) to enter and search a room actually used as a dwelling.

(4) A warrant may be issued under subsection (3) if the justice of the peace is satisfied on information under oath that, in the case of a warrant to be issued under, Requirements for warrant to issue

- (a) clause (3) (a), an inspector has been prevented from doing anything permitted under clause (1) (a), (c), (e) or (f) or there is reasonable ground to believe

that an inspector may be prevented from doing any of those things;

- (b) clause (3) (b), to search for and seize a document or thing that there is reasonable ground to believe will afford evidence relevant to a contravention of this Act or the regulations; or
- (c) clause (3) (c), it is necessary that a room actually used as a dwelling be entered for the purposes of carrying out an inspection or there is, in such a room, a document or thing that there is reasonable ground to believe is relevant to an inspection under this Act.

Execution of  
warrant

(5) A warrant issued under this section shall specify the hours and days during which it may be executed.

Expiry

(6) Unless renewed, a warrant under this section expires not later than thirty days after the date on which it is made.

Notice not  
required

(7) A warrant under this section may be issued or renewed before or after expiry upon application without notice.

Experts

(8) An inspector is entitled to call upon such experts as are necessary to assist the inspector in carrying out an inspection under this Act.

Assistance

(9) A person doing anything under the authority of a warrant issued under this section is authorized to call on such police officers to assist and to use such force as is necessary in the execution of the warrant.

Copies

(10) An inspector taking material in order to copy it shall make the copy with reasonable dispatch and shall promptly return the material taken.

Admissibility  
of copies

(11) Copies of, or extracts from, documents and things removed under this section and certified as being true copies of, or extracts from, the originals by the person who made them are admissible in evidence to the same extent as, and have the same evidentiary value as, the documents or things of which they are copies or extracts.

Obstruction  
of inspector

**44.—**(1) No person shall obstruct an inspector in carrying out an inspection under this Act or withhold, destroy, conceal or refuse to provide any relevant information or thing required for the purpose of the inspection.



(2) It is a condition of each licence issued under this Act that the licensee facilitate an inspection relevant to the licence.

Facilitating  
inspection

**45.—**(1) The Director or Registrar may apply to a judge or a local judge of the Supreme Court for the appointment of a receiver and manager of an involved funeral establishment or transfer service if,

Appointment  
of receiver  
and manager

(a) the Director or Registrar has reasonable and probable grounds to believe that a person registered under this Act has failed or is about to fail to provide contracted and paid for funeral services to a client;

(b) the Director or Registrar is advised that a proposal to suspend or revoke a licence under section 21 or to temporarily suspend a licence under section 24 has been made; or

(c) the Director has directed or is about to make a direction under section 41.

(2) A judge, upon an application being made under subsection (1), without notice or, if the judge considers that notice should be given, upon such notice as the judge stipulates, may, if it is considered in the public interest and subject to the *Bankruptcy Act* (Canada), appoint a receiver and manager to take possession and control of the business of the person in respect of whom an action referred to in subsection (1) applies for a period not exceeding sixty days.

Idem

R.S.C. 1985,  
c. B-3

(3) An appointment made under subsection (2) may be extended, upon an application without notice, for an additional period not exceeding sixty days.

Extension

(4) A receiver and manager appointed under subsection (2) shall take possession and control of the assets of the business and shall thereafter conduct the business and take such steps as in the opinion of the receiver and manager should be taken toward its rehabilitation.

Receiver and  
manager  
taking  
control

(5) For the purposes of subsection (4), the receiver and manager have all the powers of the board of directors of the corporation, if the business is a corporation, or of a sole proprietor or all partners if the business is not a corporation and, without limiting the generality of the foregoing, the receiver and manager may,

Idem



- (a) exclude the directors, officers, servants and agents of the business from the premises and property of the business; and
- (b) carry on, manage and conduct the operations of the business and in the name of the business preserve, maintain, realize, dispose of and add to the property of the business and receive the incomes and revenues of the business.

Enforcement  
of order

(6) An order made under this section may be enforced in the same manner as any order or judgment of the Supreme Court and may be varied or discharged upon an application made by notice.

Rules of  
practice

(7) Upon an application being made under this section, the rules of practice of the Supreme Court apply.

Regulations

**46.**—(1) The Lieutenant Governor in Council may make regulations,

1. prescribing the manner in which trust accounts shall be kept and accounted for;
2. providing for the inspection of trust accounts;
3. prescribing the duties of depositories with respect to trust funds held under this Act;
4. requiring receipts to be given by licensees with respect to contracts;
5. providing for the establishment, maintenance and administration of the Compensation Fund;
6. prescribing provisions that relate to the investing and paying out of moneys from the Compensation Fund;
7. providing for the payment of levies into the Compensation Fund and prescribing the amounts of levies;
8. providing for appeals from a refusal to pay out of the Compensation Fund;
9. governing the powers and duties of the trustee administering the Compensation Fund;

10. requiring the purchase of bonds for the purpose of indemnifying the Compensation Fund;
11. prescribing the terms and amounts of bonds;
12. providing for payment out of the Compensation Fund of claims and procedures to be followed with respect thereto;
13. requiring participation in the Compensation Fund by licensees;
14. on any matter relating generally to the purchase, renewal or terms of a bond or the disposition of payments received thereunder;
15. governing the form and content of contracts and receipts, including the cancellation of contracts;
16. prescribing the terms that a contract shall be deemed to contain;
17. prescribing conditions under which contracts may be assigned and prohibiting assignments that are not in accordance with the prescribed conditions;
18. regulating, limiting or prohibiting the soliciting of contracts;
19. governing the term during which each class or type of licence is valid;
20. exempting any person or thing or class of person or thing from the application of any provision of this Act or the regulations and prescribing conditions for any exemption;
21. authorizing persons, other than funeral directors, to perform specified acts in the providing of funeral services under the supervision or direction of a funeral director;
22. governing the books, accounts, records and information that shall be kept by licensees and that shall be filed with the Registrar;
23. prescribing fees and requiring the payment of fees;
24. prescribing forms and providing for their use;

25. prescribing educational requirements and testing requirements on an initial and ongoing basis for licensees and employees of licensees;
26. governing applications for licences and renewals of licences;
27. prescribing classes of licences;
28. governing the requirements and qualifications for the issuing of licences and prescribing the conditions for obtaining and maintaining a licence;
29. governing standards of practice and operation for licensees;
30. respecting the methods and materials that may be used in providing funeral services;
31. prohibiting or governing the advertising of funeral services or funeral supplies and prohibiting or governing the display of funeral supplies to the public;
32. governing the construction, location, equipment, maintenance, repairs, additions and alterations to funeral establishments and governing the information, plans and materials to be furnished to the Registrar with respect thereto;
33. governing the equipment and practices with respect to the embalming, transportation, preparation and disposal of dead human bodies;
34. regulating, controlling and prohibiting the use of terms, titles or designations by licensees;
35. prescribing practices or actions that are evidence of incompetence or lack of honesty and integrity;
36. governing the availability and display of funeral services and funeral supplies;
37. prescribing specifications and minimum requirements for funeral services and funeral supplies;
38. prescribing, for any notice required to be given under this Act, the type of notice and the manner in which it is to be given;

39. governing the payment of money into and out of trust funds, including the time within which and the circumstances under which payments are to be made;
40. providing for the maintenance and inspection of registers of persons who are licensed;
41. prescribing anything that is referred to in this Act as being prescribed.

(2) A regulation made under this Act may be of limited application. Limited application

(3) A regulation made under this section may be retroactive in effect and may apply to contracts entered into before this Act comes into force. Retroactive

**47.—**(1) Every person who, Offence

- (a) furnishes false, misleading or incomplete information in an application under this Act or in a statement or return required to be furnished under this Act or the regulations;
- (b) fails to comply with a direction or order made under this Act; or
- (c) contravenes any provision of this Act or the regulations,

is guilty of an offence.

(2) Every director or officer of a corporation who concurs in an offence under this Act is guilty of an offence. Idem

(3) An individual who is convicted of an offence under this Act is liable to a fine of not more than \$20,000 and on a subsequent conviction to a fine of not more than \$20,000 and to imprisonment for a term of not more than one year. Idem

(4) A corporation that is convicted of an offence under this Act is liable to a fine of not more than \$40,000. Idem

(5) No proceeding under this section shall be commenced more than two years after the facts upon which the proceedings are based first came to the knowledge of the Director. Limitation

(6) A statement as to the time when the facts upon which proceedings are based first came to the knowledge of the Certificate as evidence



Director purporting to be certified by the Director is, without proof of the office or signature of the Director, admissible in evidence in any proceeding, in the absence of evidence to the contrary, as evidence of the facts stated therein.

Restitution

(7) If a person is convicted of an offence under this Act, the court making the conviction may, in addition to any other penalty, order the person convicted to make compensation or restitution in relation thereto.

Matters  
confidential

**48.**—(1) Every person employed in the administration of this Act, including any person making an inspection under this Act and any member of the Board or a committee of the Board, shall preserve secrecy with respect to all matters that come to the person's knowledge in the course of the person's duties, employment, inquiry or inspection and shall not communicate any such information to any other person except,

- (a) as may be required in connection with the administration of this Act and the regulations or any proceedings under this Act or the regulations;
- (b) to the person's counsel;
- (c) with the consent of the person to whom the information relates; or
- (d) to an employee of the Ministry of Consumer and Commercial Relations or to an employee of another ministry who requires the information in the performance of his or her duties and if disclosure is necessary for the administration of this Act or any other Act and the regulations thereunder administered by the Minister.

Idem

(2) The Ministry of Consumer and Commercial Relations or another ministry may disclose information in its custody or control to an employee of the Board if,

- (a) the personal information is reasonably required to verify the truth of the contents of an application for, or an application for renewal of, a licence or to verify the truth of any other information supplied in support of any such application; or
- (b) the Ministry or agency of the Ministry has reasonable grounds to believe that the personal information is relevant to a person's qualification to hold a licence.

(3) No person to whom subsection (1) applies shall be required to give testimony in any civil suit or proceeding with regard to information obtained by the person in the course of the person's duties, employment, inquiry, investigation or inspection except in a proceeding under this Act or the regulations.

Testimony in  
civil suit

**49.** A statement as to,

Certificate as  
evidence

- (a) the licensing or non-licensing of any person;
- (b) the filing or non-filing of any document or material required or permitted to be filed with the Registrar;  
or
- (c) any other matter pertaining to licensing, non-licensing, filing or non-filing,

containing information from the records kept by the Registrar under this Act purporting to be certified by the Registrar under the seal of the Board is, without proof of the office or signature of the Registrar, admissible in evidence in any proceeding, in the absence of evidence to the contrary, as evidence of the facts stated therein.

**50.—**(1) A notice, order or other document under this Act or the regulations is sufficiently given, served or delivered if delivered personally or sent by first class mail addressed to the person to whom it is to be given, served or delivered at that person's last known address.

Service

(2) A notice, order or other document sent by first class mail in accordance with subsection (1) shall be deemed to be given, served or delivered on the fifth day after the day of mailing, unless the person to whom it is sent establishes that the notice, order or other document was not received until a later date because of absence, accident, illness or other cause beyond that person's control.

Idem

**51.—**(1) A funeral director who is registered with the Board of Funeral Services under the *Funeral Services Act* on the date this Act comes into force is deemed to be licensed as a funeral director until the expiration of the licence, unless the licence is sooner surrendered, suspended or revoked.

Transition

R.S.O. 1980,  
c. 180

(2) A person who is licensed with the Board of Funeral Services under the *Funeral Services Act* to establish and maintain a funeral services establishment on the date this Act comes into force is deemed to be licensed to operate a funeral

Idem

establishment until the expiration of the licence, unless the licence is sooner surrendered, suspended or revoked.

Funeral  
Services  
Review  
Board not  
continued

**52.** The board known as the Funeral Services Review Board is dissolved and any matter before the Board on the date this Act comes into force shall be dealt with by the Tribunal.

Repeals

**53.** The following are repealed:

1. The *Funeral Services Act*, being chapter 180 of the Revised Statutes of Ontario, 1980.
2. Section 3 of the *Mobility Rights Statute Law Amendment Act, 1985*, being chapter 5.
3. The *Prearranged Funeral Services Act*, being chapter 387 of the Revised Statutes of Ontario, 1980.

Commence-  
ment

**54.** This Act comes into force on a day to be named by proclamation of the Lieutenant Governor.

Short title

**55.** The short title of this Act is the *Funeral Directors and Establishments Act, 1989*.

# Bill 30

## **An Act respecting Funeral Directors and Establishments**

**The Hon. G. Sorbara**  
*Minister of Consumer and Commercial Relations*

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<i>1st Reading</i>	June 12th, 1989
<i>2nd Reading</i>	June 21st, 1989
<i>3rd Reading</i>	
<i>Royal Assent</i>	

*(Reprinted as amended by the Resources Development Committee)*



## EXPLANATORY NOTES

The *Funeral Directors and Establishments Act, 1989* replaces the *Funeral Services Act* and the *Prearranged Funeral Services Act*.

Some features of the Bill are as follows:

1. Funeral establishments, funeral directors and transfer services will be licensed by the Board of Funeral Services (the Board).
2. The Board will report to the Ministry of Consumer and Commercial Relations.
3. The Board will continue to consist of funeral directors and lay people appointed by the Lieutenant Governor in Council.
4. The Board is responsible for the education, licensing and discipline of funeral directors, funeral establishments and transfer services.
5. Decisions of the Board may be appealed to The Commercial Registration Appeal Tribunal (CRAT).
6. An individual who meets the requirements of the Act will be licensed as a funeral director in one of two categories, those who perform embalming and those who choose not to perform embalming.
7. Embalming, visitation or the arranging of a funeral is only available to the public through a licensed funeral establishment.
8. A funeral establishment must be managed and directly supervised by a licensed funeral director.
9. A transfer service may only provide for the removal, transportation or delivery of remains and the filing of necessary documentation. A transfer service need not be under the direction of a licensed funeral director.
10. The Bill also provides for inspections, freezing of assets, appointment of receivers and managers and restraining and cease and desist orders.
11. Telephone and door-to-door solicitation for the sale of funeral services or supplies is prohibited.
12. The Bill provides for regulations to deal with itemized price lists and consumer information.
13. The regulations also provide authority to prohibit funeral establishments from being located on or operated in connection with cemeteries or crematoria.
14. Funeral establishments and transfer services will be required under the regulations to contribute to a compensation fund to compensate consumers in the event of a defalcation.
15. A board of trustees will administer the compensation fund.
16. All moneys received for a prepaid funeral will be held together with income accrued in trust for the beneficiary until it is dispersed in accordance with the Act.
17. All prepaid contracts may be cancelled at any time prior to the services being delivered. If the contract is cancelled within thirty days of signing, no administration fee may be charged.

Bill 30

1989

## An Act respecting Funeral Directors and Establishments

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

**1.** In this Act,

Definitions

“beneficiary” means a person for whom funeral services or supplies, or both, are to be provided under a contract or prepaid contract;

“Board” means the Board of Funeral Services;

“cemetery” means a cemetery within the meaning of the 1989, c. ...  
*Cemeteries Act, 1989*;

“Compensation Fund” means the Prepaid Funeral Services Compensation Fund established under the regulations;

“contract” means an agreement wherein a person provides or agrees to provide funeral services or supplies, or both or for the transportation of a dead human body, and includes prepaid contracts;

“depository” means a chartered bank, loan or trust company, Province of Ontario Savings Office or a credit union as defined in the *Credit Unions and Caisses Populaires Act*; R.S.O. 1980, c. 102

“Director” means a director appointed under the *Ministry of Consumer and Commercial Relations Act*; R.S.O. 1980, c. 274

“disbursements” means payments actually made by a funeral director or a person who operates a funeral establishment on behalf of a purchaser of funeral services or supplies, or both;

“embalming” means the preservation and disinfection of all or part of a dead human body by any means other than by refrigeration;

“equity share” means a share of a class of shares that carries a voting right either under all circumstances or under some circumstances that have occurred and are continuing;

“funeral” means a rite or ceremony in connection with the death of a person where the body is present;

“funeral director” means an individual who provides or directs the providing of funeral services;

“funeral establishment” means premises where funeral services are supplied;

“funeral services” means the care and preparation of dead human bodies and the co-ordination of rites and ceremonies with respect to dead human bodies, but does not include services provided by a cemetery or crematorium owner under the *Cemeteries Act, 1989*;

1989, c. ...

“funeral supplies” means goods that are used in connection with the care and preparation of dead human bodies or the disposition of dead human bodies;

“income” means the interest or money earned, including the compounding thereof, by the investment of funds received under a prepaid contract;

“licence” means a licence issued under this Act and “licensed” has a corresponding meaning;

“Minister” means the Minister of Consumer and Commercial Relations;

“prearrangement” means an arrangement for the provision of specific funeral services, supplies or transportation of a dead human body on the death of a person who is alive at the time the arrangement is made;

“prepaid contract” means an agreement whereby a person contracts with a purchaser to provide or make provision for funeral services, funeral supplies, or both, or for the transportation of a dead human body, including disbursements, upon the death of a beneficiary, if any payment for the contract is made prior to the death of the beneficiary or the purchaser enters into an insurance contract or plan under which a licensee is to receive directly or indirectly the pro-

ceeds of the insurance policy upon the death of the beneficiary;

“prepayment” means the payment or the guarantee of a payment pursuant to a prepaid contract;

“prepayment funds” means the money deposited in trust under the provisions of this Act and the income therefrom and includes the proceeds of an insurance policy received by a licensee;

“prescribed” means prescribed by the regulations;

“Registrar” means the Registrar of the Board;

“regulations” means regulations made under this Act;

“transfer service” means a service to the public with respect to the disposition of dead human bodies, including the transportation of dead human bodies and the filling out of the necessary documentation with respect to the disposition of dead human bodies;

“Tribunal” means The Commercial Registration Appeal Tribunal.


**2.—(1)** There shall be a Registrar appointed by the Board Registrar  
for the purposes of this Act.

(2) The Registrar may exercise the powers and shall perform the duties conferred or imposed on the Registrar by or under this Act under the supervision of the Board. Powers of Registrar

➡  
(3) The Registrar shall maintain one or more registers in Registers  
which is entered,

- (a) the name of every person licensed under this Act;
- (b) any conditions and limitations imposed on a licence by the Registrar, a Committee or the Tribunal;
- (c) the fact and date of each revocation, suspension, cancellation or termination of a licence;
- (d) the fact and amount of each fine imposed by the Discipline Committee, except if the Discipline Committee directs that no entry with respect to a fine be made;



- (e) the fact of each reprimand made by the Discipline Committee, except if the Discipline Committee directs that no entry with respect to the reprimand be made; and
- (f) such other information in addition to that set out in clauses (a) to (e) as is prescribed. 

Inspection

(4) Any person has the right, during normal business hours, to inspect the registers maintained by the Registrar.

Copies

(5) The Registrar shall provide to any person, upon payment of a reasonable charge therefor, a copy of any part of the registers maintained by the Registrar.

Board  
continued

**3.—**(1) The Board of Funeral Services, a body corporate, is continued as a corporation without share capital.

Principal  
object

(2) The principal object of the Board is to regulate the practices of funeral directors and persons who operate funeral establishments and transfer services in accordance with this Act, the regulations and the by-laws in order that the public interest may be served and protected.

Additional  
objects

(3) For the purpose of carrying out its principal object, the Board has the following additional objects:

1. To establish, maintain and develop standards of knowledge and skill among funeral directors and persons who operate funeral establishments and transfer services.
2. To establish, maintain and develop standards of qualification and standards of practice for funeral directors and persons who operate funeral establishments and transfer services.
3. To establish, maintain and develop standards of professional ethics among funeral directors and persons who operate funeral establishments and transfer services.
4. To administer the Compensation Fund.
5. To oversee and inspect trust accounts that funeral establishments and transfer services are required by law to establish or maintain.
6. To mediate complaints between consumers and licensees.

7. To establish and develop standards for funeral establishments.
8. To perform such other duties and exercise such other powers as are imposed or conferred on the Board by or under any Act.

(4) For the purpose of carrying out its objects, the Board has the capacity and the powers of a natural person.

Capacity and  
powers of  
Board

(5) The Board shall,

Duties of  
Board

- (a) review the operation of this Act and the regulations and make recommendations to the Minister thereon;
- (b) approve or set courses of study and examinations for the qualification of applicants for licences; and
- (c) carry out such duties as are prescribed.

4.—(1) The Board shall be composed of the following members appointed by the Lieutenant Governor in Council:

Composition

1. A prescribed number of funeral directors, one of whom,
  - i. is not licensed to operate a funeral establishment,
  - ii. is not a director of a corporation that is licensed to operate a funeral establishment,  
and
  - iii. does not direct the operation of a funeral establishment.
2. A prescribed number of persons who are not funeral directors.

(2) The members of the Board shall be appointed to hold office for a term not exceeding three years and may be reappointed for further successive terms, but shall not be appointed or reappointed for more than six successive years.

Term of  
office

(3) A vacancy on the Board caused by the death, resignation, removal or incapacity to act of a member may be filled by the appointment by the Lieutenant Governor in Council of a person to hold office for the unexpired portion of the term of office of such member.

Vacancy

## Quorum

(4) Five members of the Board, at least two of whom shall be members appointed under paragraph 2 of subsection (1), constitute a quorum.

## Officers

(5) The Board shall appoint a chairperson and vice-chairperson and such other officers as are considered necessary from among the members of the Board.

## Expenses and remuneration of members of Board

(6) The members of the Board,

- (a) appointed under paragraph 1 of subsection (1) shall be paid by the Board such expenses and remuneration as are prescribed; and
- (b) appointed under paragraph 2 of subsection (1) shall be paid, out of the moneys appropriated therefor by the Legislature, such expenses and remuneration as are determined by the Lieutenant Governor in Council.

## Staff

(7) The Board may employ such employees and retain such assistance as is necessary to perform the work of the Board and may determine their salary, remuneration and terms and conditions of employment.

## Meetings of Board

(8) The Board shall meet at least four times a year.

## Continuation of Board members

(9) The members of the Board who were in office immediately before the coming into force of this Act are continued in office until the expiration of their terms or until their offices otherwise become vacant.

## Annual report

(10) The Board shall deliver to the Minister each year an annual report on the affairs of the Board and on the operation of the Compensation Fund.

## Idem

(11) The Minister shall submit the annual report to the Lieutenant Governor in Council and shall then lay the report before the Assembly if it is in session or, if not, at the next session.

## Powers of Minister

**5.** The Minister may, in addition to any other powers and duties conferred on the Minister by or under any Act,

- (a) review the activities of the Board;
- (b) request the Board to undertake activities that, in the opinion of the Minister, are necessary and advisable to carry out the intent of this Act;

- (c) advise the Board with respect to the implementation of this Act and the regulations and with respect to the methods used or proposed to be used by the Board to implement policies and to enforce its by-laws and procedures.

**6.—(1)** The Board may pass by-laws relating to the administrative and domestic affairs of the Board not inconsistent with this Act and the regulations and, without limiting the generality of the foregoing,

By-laws

1. specifying the seal of the Board;
2. providing for the execution of documents by the Board;
3. respecting banking and finance;
4. fixing the financial year of the Board and providing for the audit of the accounts and transactions of the Board;
5. respecting the calling, holding and conducting of meetings of the Board and committees of the Board and the duties of members of the Board and committees of the Board;
6. providing for a code of ethics;
7. delegating to the Executive Committee such powers and duties of the Board as are set out in the by-laws, other than the power to make, amend or revoke regulations and by-laws;
8. respecting the calling, holding and conducting of meetings of licensees;
9. providing for the use of forms;
10. providing procedures for the making, amending and revoking of the by-laws;
11. respecting management of the property of the Board;
12. providing for the appointment, composition, powers and duties of committees in addition to those committees established under subsection 7 (1);



13. respecting the application of the funds of the Board and the investment and reinvestment of any of its funds not immediately required, and for the safe-keeping of its securities;
14. respecting membership of the Board in other organizations, the payment of annual assessments and provision for representatives at meetings;
15. respecting the appointment of inspectors by the Registrar for the purposes of this Act;
16. providing for meetings of the Board and committees, except in a proceeding in respect of a licence, by means of conference telephone or other communications equipment by means of which all persons participating in the meeting can hear each other, and a member of the Board or committee participating in a meeting in accordance with such by-law shall be deemed to be present in person at the meeting;
17. providing that the Board or a committee may act upon a resolution consented to by the signatures of all members of the Board or the committee except in a proceeding in respect of a licence, and a resolution so consented to in accordance with such a by-law is as valid and effective as if passed at a meeting of the Board or the committee duly called, constituted and held for that purpose;
18. providing for the payment of necessary expenses of the Board and committees of the Board in the conduct of their business;
19. providing for the Board to enter into arrangements on behalf of licensees with respect to the bonding of licensees and requiring the payment and remittance of premiums in connection therewith, setting levies that shall be paid by licensees and exempting licensees or any class thereof from all or any part of such levy;
20. providing for the establishment of group insurance plans, other than for professional liability, in which licensees may participate on a voluntary basis;
21. regarding such other matters as are entailed in carrying on the business of the Board.

(2) A copy of the by-laws made under subsection (1) and amendments thereto, Distribution of by-laws

- (a) shall be forwarded to the Minister;
- (b) shall be forwarded to each licensee; and
- (c) shall be available for public inspection in the office of the Board.

(3) At any time before or after receiving a copy of a by-law made under subsection (1), the Minister may, by an order in writing, revoke or amend the by-law. Minister may revoke or amend by-laws

(4) Despite subsection (3), a by-law is effective until so revoked or amended by the Minister and no act done or right acquired under any such by-law before revocation or amendment by the Minister is prejudicially affected by the revocation or amendment. Idem

7.—(1) The Board shall establish and appoint the following committees: Establishment of committees

1. Executive Committee.
2. Licensing Committee.
3. Complaints Committee.
4. Discipline Committee.
5. Compensation Fund Committee.

(2) The Board may establish such other committees in addition to those established under subsection (1) as the Board from time to time considers necessary. Idem

(3) If one or more vacancies occur in the membership of a committee, the members remaining constitute the committee so long as their number is not fewer than a quorum of the committee. Vacancies

8.—(1) The Executive Committee shall be composed of three persons who are members of the Board, one of whom shall be a person appointed under paragraph 2 of subsection 4 (1). Executive Committee

(2) The Board shall name one member of the Executive Committee to be chairperson. Chairperson

- Quorum (3) Two members of the Executive Committee constitute a quorum.
- Powers of Executive Committee (4) The Board may delegate to the Executive Committee the authority to exercise any power or perform any duty of the Board, other than to make, amend or revoke a by-law.
- Urgent matters (5) Subject to ratification by the Board at its next ensuing meeting, the Executive Committee may take action upon any other matter that requires immediate attention between meetings of the Board, other than to make, amend or revoke a by-law.
- Licensing Committee **9.**—(1) The Licensing Committee shall be composed of three persons who are members of the Board, one of whom shall be a person appointed under paragraph 2 of subsection 4 (1).
- Chairperson (2) The Board shall name one member of the Licensing Committee to be chairperson.
- Quorum (3) Two members of the Licensing Committee constitute a quorum.
- Complaints Committee **10.**—(1) The Complaints Committee shall be composed of three persons who are members of the Board, one of whom shall be a person appointed under paragraph 2 of subsection 4 (1).
- Chairperson (2) The Board shall name one member of the Complaints Committee to be chairperson.
- Quorum (3) Two members of the Complaints Committee constitute a quorum.
- Discipline Committee **11.**—(1) The Discipline Committee shall be composed of four members of the Board, two of whom shall be persons appointed under paragraph 2 of subsection 4 (1).
- Chairperson (2) The Board shall name one member of the Discipline Committee to be chairperson.
- Quorum (3) Three members of the Discipline Committee constitute a quorum.
- Majority vote (4) All disciplinary decisions of the Discipline Committee require the vote of a majority of the members of the Discipline Committee present at the hearing.

(5) If the Discipline Committee commences a hearing and a member of the Discipline Committee is unable to continue to act, the remaining members may complete the hearing despite the absence of the member.

Disability of member

**12.—**(1) The Compensation Fund Committee shall be composed of three persons who are members of the Board, two of whom shall be persons appointed under paragraph 2 of subsection 4 (1).

Compensation Fund Committee

(2) The Board shall name one member of the Compensation Fund Committee to be chairperson.

Chairperson

(3) Two members of the Compensation Fund Committee constitute a quorum.

Quorum

**13.—**(1) The Licensing Committee shall consider all matters that are referred to it by the Registrar under section 22.

Powers and duties of Licensing Committee

(2) The Licensing Committee may make recommendations to the Registrar with respect to,

Recommendations

(a) the eligibility of an applicant for a licence or a renewal of a licence;

(b) issuing or refusing to issue a licence to an applicant for a licence or a renewal of a licence;

(c) issuing a licence or a renewal of a licence to an applicant subject to conditions;

(d) suspending or revoking the licence of a licensee;

(e) the desirability of requiring an applicant for a licence or a renewal of a licence or a licensee to take and pass such additional training or part thereof that may be prescribed; or

(f) exempting an applicant for a license or a renewal of a licence or a licensee from any licensing requirement.

**14.—**(1) The Complaints Committee shall consider and investigate complaints regarding the conduct or actions of any licensee, but no action shall be taken by the Complaints Committee under subsection (2) unless,

Duties of Complaints Committee

(a) a written complaint has been filed with the Registrar and the licensee whose conduct or actions are being investigated has been notified of the com-



plaint and given at least two weeks in which to submit in writing to the Committee any explanations or representations the licensee may wish to make concerning the matter; and

- (b) the Committee has examined or has made every reasonable effort to examine all records and other documents relating to the complaint.

Idem

(2) The Complaints Committee in accordance with the information it receives may,

- (a) consider all or part of the matter;
- (b) direct that all or part of the matter be referred to the Discipline Committee; and
- (c) subject to subsection (9), take or recommend such action that it considers appropriate in the circumstances and that is not inconsistent with this Act, the regulations or the by-laws.

Decisions  
and reasons

(3) The Complaints Committee shall advise the Registrar in writing of the action it proposes to take or recommend and its reasons therefor.

Notice

(4) Subsections (3) and (6) do not apply to a matter that is referred to the Discipline Committee.

Hearing

(5) The Complaints Committee is not required to hold a hearing or to afford any person an opportunity for a hearing or to make oral submissions before it prior to it taking action or making a recommendation under this section.

Notice

(6) The Registrar shall send to the complainant and to the person complained against by prepaid first class mail a copy of the proposal of the Complaints Committee and its reasons therefor, if any, together with notice that informs the person to whom it is sent that the person is entitled to a hearing by the Tribunal if the person mails or delivers to the Registrar and to the Tribunal, within fifteen days after the notice is served on the person, notice in writing requiring a hearing and the person may so require such a hearing.

No hearing

(7) If a complainant or the person complained against does not require a hearing by the Tribunal, the Complaints Committee may carry out the proposal stated in the notice to the complainant or the person complained against.

(8) If the complainant or the person complained against requires a hearing, the Tribunal shall appoint a time for and hold a hearing. Hearing

(9) After holding a hearing, the Tribunal may by order direct the Complaints Committee to carry out the proposal or refrain from carrying out the proposal and to take such action as the Tribunal considers the Complaints Committee ought to take in accordance with this Act and the regulations and, for such purposes, the Tribunal may substitute its opinion for that of the Complaints Committee. Order

(10) The Tribunal may attach such conditions to its order as it considers proper to give effect to the purposes of this Act. Conditions

(11) The Registrar, the person who required the hearing and such other persons as the Tribunal may specify are parties to proceedings before the Tribunal under this section. Parties

**15.** Despite subsection 14 (1), the Board or the Executive Committee may direct the Discipline Committee to hold a hearing and determine any allegation of professional misconduct or incompetence on the part of a funeral director. Reference by Board or Executive Committee

**16.—(1)** The Discipline Committee shall, Duties of Discipline Committee

(a) when so directed by the Board, Executive Committee or Complaints Committee, hear and determine allegations of professional misconduct or incompetence against a funeral director;

(b) hear and determine matters referred to it by the Board, Registrar, Executive Committee or Complaints Committee under this Act with respect to funeral directors; and

(c) perform such other duties as are assigned to it by the Board.

(2) A funeral director may be found guilty of professional misconduct by the Discipline Committee if, Professional misconduct

(a) the funeral director has been found guilty of an offence that is relevant to the funeral director's suitability to practise as a funeral director, upon proof of such conviction; or

(b) the funeral director has been guilty in the opinion of the Discipline Committee of professional misconduct as prescribed.

Incompetence (3) The Discipline Committee may find a funeral director to be incompetent if in its opinion,

- (a) the funeral director has displayed in the providing or in directing the providing of funeral services or funeral supplies or in performing or supervising the performing of an embalming, a lack of knowledge, skill or judgment of a nature or to an extent that demonstrates the funeral director is unfit to continue as a funeral director;
- (b) the funeral director is suffering from a physical or mental condition or disorder of a nature and extent that makes it desirable in the interest of the public that the funeral director no longer be permitted to continue as a funeral director.

Examinations

➡ (4) If the Discipline Committee is required to hear and determine allegations of incompetence under clause (3) (b), the Discipline Committee may require the funeral director who is the subject of the hearing to submit to a physical or mental examination, or both, by such persons as the Board designates.

Suspension of licence

(5) If a funeral director fails to submit to an examination required under this section, the Discipline Committee may order that the licence of the funeral director be suspended until the funeral director submits to the examination.

Evidence

(6) A legally qualified medical practitioner who conducts a physical or mental examination required under this section is not compellable to produce at the hearing his or her case histories, notes or any other records that may constitute medical evidence.

Report

(7) A person who conducts an examination under this section shall upon completing the examination forthwith prepare and deliver to the Registrar a report that contains facts, findings and conclusions and suggested treatment, if any.

Idem

(8) A report that is prepared as a result of an examination that is conducted under this section shall be delivered by the Registrar to the funeral director,

- (a) if the examination is required prior to the hearing, at least five days prior to the commencement of the hearing; or



- (b) if the examination is required during the course of the hearing, at least five days prior to its introduction as evidence.

(9) A report that is prepared as a result of an examination that is conducted under this section is receivable as evidence without proof of its making or the signature of the person making the report. Idem

(10) A party to the hearing who is not tendering a report as evidence has the right to summon and cross examine the person who made the report on the contents of the report. Right to cross examine

(11) If the Discipline Committee finds a funeral director guilty of professional misconduct or incompetence, it may by order do any of the following things or any combination of the following things: Powers of Discipline Committee

1. Revoke the licence of the funeral director.
2. Suspend the licence of the funeral director for a stated period.
3. Impose restrictions on the licence of the funeral director for a period and subject to the conditions specified by the Discipline Committee.
4. Reprimand the funeral director.
5. Impose such fine as the Discipline Committee considers appropriate to a maximum of \$10,000 to be paid by the funeral director to the Treasurer of Ontario for payment into the Consolidated Revenue Fund.
6. Direct that the imposition of a penalty be suspended or postponed for the period and upon the terms specified by the Discipline Committee.

(12) If the Discipline Committee imposes a fine or reprimands a funeral director, the Discipline Committee may direct that the fine or the reprimand not be entered in the applicable register. Entry on register

(13) If the Discipline Committee is of the opinion that the commencement of the proceedings was unwarranted, the Committee may order that the Board reimburse the funeral director for the funeral director's costs or such portion thereof as the Discipline Committee fixes. Costs



Stay on  
appeal for  
incompetence

↓  
(14) If the Discipline Committee revokes, suspends or restricts a licence on the grounds of incompetence, the decision takes effect immediately despite the fact that an appeal is taken from the decision, unless the Tribunal otherwise orders and, where the Tribunal is satisfied that it is appropriate in the circumstances, the Tribunal may so order. ▲

Stay on  
appeal for  
professional  
misconduct

(15) If the Discipline Committee revokes, suspends or restricts a licence on grounds other than for incompetence, the order does not take effect until the time for appeal from the order has expired without an appeal being taken or, if taken, the appeal has been disposed of or abandoned, unless the Discipline Committee otherwise orders, and, where the Committee considers that it is appropriate for the protection of the public, the Committee may so order.

Service of  
decision of  
Discipline  
Committee

(16) If the Discipline Committee finds a funeral director guilty of professional misconduct or incompetence, a copy of the decision shall be served upon the person complaining in respect of the conduct or action of the funeral director.

Continuation  
on expiry of  
Committee  
membership

(17) If a proceeding is commenced before the Discipline Committee and the term of office on the Board or on the Committee of a member sitting for the hearing expires or is terminated before the proceeding is disposed of but after evidence has been heard, the member shall be deemed to remain a member of the Discipline Committee for the purpose of completing the disposition of the proceeding in the same manner as if his or her term of office had not expired or been terminated.

Parties to  
discipline  
proceedings

**17.—**(1) In proceedings before the Discipline Committee, the Board and the funeral director whose conduct is being investigated in the proceedings are parties to the proceedings.

Examination  
of  
documentary  
evidence

(2) A funeral director whose conduct is being investigated in proceedings before the Discipline Committee shall be afforded an opportunity to examine before the hearing any written or documentary evidence that will be produced or any report the contents of which will be given in evidence at the hearing.

Members  
holding  
hearing not  
to have  
taken part in  
investigation,  
etc.

(3) Members of the Discipline Committee holding a hearing shall not have taken part before the hearing in any investigation of the subject-matter of the hearing other than as a member of the Board considering the referral of the matter to the Discipline Committee or at a previous hearing of the Committee.

(4) Members of the Discipline Committee shall not communicate directly or indirectly in relation to the subject-matter of the hearing with any person or with any party or representative of a party except upon notice to and opportunity for all parties to participate.

No  
communi-  
cation

(5) The Discipline Committee may seek legal advice from an adviser independent from the parties and, in such case, the nature of the advice shall be made known to the parties in order that they may make submissions as to the law.

Advice

(6) The oral evidence taken before the Discipline Committee shall be recorded and, if so required, copies or a transcript thereof shall be furnished only to the parties at the cost to the parties.

Recording of  
evidence

(7) Documents and things put in evidence at a hearing of the Discipline Committee shall, upon the request of the person who produced them, be released to the person by the Committee within a reasonable time after the matter in issue has been finally determined.

Release of  
documentary  
evidence

**18.—**(1) A party to proceedings before the Discipline Committee may appeal from its decision or order to the Tribunal.

Appeal to  
Tribunal

(2) Subsections 14 (6) to (11) apply with necessary modifications to an appeal to the Tribunal from a decision or order of the Discipline Committee.

Application

**19.—**(1) No person shall act or imply that the person is available to act as a funeral director unless the person is licensed to do so.

Licence  
required

(2) No person shall operate or imply that the person is available to operate a funeral establishment unless the person is licensed to do so.

Idem

(3) No person shall operate or imply that the person is available to operate a transfer service unless,

Idem

(a) the person is licensed to do so; or

(b) the person is licensed to operate a funeral establishment and the transfer service is operated as part of the normal operation of the funeral establishment.

(4) No person other than a funeral director who is licensed to do so shall perform or imply that the person is available to perform embalming.

Idem

Place of  
business

(5) No person shall operate a funeral establishment or transfer service except at a place that is named in the licence of the person.

Funeral  
services

(6) No funeral director shall offer funeral services except through a licensed funeral establishment.

Idem

(7) No funeral director shall offer funeral services to the public except through an operator of a funeral establishment who is licensed to do so.

Funeral  
establishment

(8) No operator of a funeral establishment shall employ a person as a funeral director unless the person is licensed as a funeral director.

Direction and  
management

(9) Every operator of a funeral establishment shall ensure that the funeral establishment is managed and directly supervised by a funeral director who is responsible for the conduct or misconduct of any person to whom the funeral director delegates responsibilities.

Idem

(10) No funeral director shall manage and directly supervise the operation of more than one funeral establishment except as prescribed.

Corporation

(11) Each corporation that is licensed to operate a funeral establishment shall ensure that at least one of the directors of the corporation is a funeral director.

Exceptions

(12) Subsections (1) and (4) do not apply,

(a) to a student in a training program who is working under the supervision and in the presence of a funeral director; or

(b) to a student who is enrolled in a recognized course of funeral services education and who is working under the supervision and in the presence of the instructor of the course.

Idem

(13) Subsection (4) does not apply to a person employed in a recognized school of medicine or anatomy while so employed.

Application

**20.—**(1) A person may apply to the Registrar for a licence to operate a funeral establishment or to operate a transfer service.



(2) A person who has successfully completed the educational requirements that are prescribed may apply to the Registrar for a licence as a funeral director. Idem

(3) An applicant is entitled to a licence or a renewal of a licence as a funeral director or to operate a funeral establishment or to operate a transfer service except if, Requirement

➡ (a) the applicant cannot reasonably be expected to be competent or financially responsible in the conduct of the applicant's business;

(b) the past or present conduct of the persons referred to in subsection (4) affords reasonable grounds for belief that the applicant will not operate in accordance with the law and with integrity and honesty; ▲

(c) the applicant or an employee or agent of the applicant makes a false statement or provides a false statement in an application for a licence;

(d) the applicant is carrying on activities that are, or will be if the applicant is licensed, in contravention of this Act or the regulations;

(e) the applicant will, if licensed, be carrying on activities under this Act and the regulations that are in contravention of another Act or a municipal by-law; or

➡ (f) in the case of a corporation that operates a funeral establishment, no director of the corporation is a funeral director.

➡ (4) Clause (3) (b) applies to the following persons: Idem

1. The applicant.
2. An officer or director of the applicant.
3. A person holding more than 10 per cent of the equity shares of the applicant or an officer or director of such person.
4. Any person having a beneficial interest in the operation of the business of the applicant or licensee. ▲

(5) The Registrar shall issue a licence as a funeral director, to operate a funeral establishment or to operate a transfer service, as the case requires, to every applicant therefor who Issue



pays the fee that is prescribed, complies with this Act and the regulations and is not disentitled under subsection (3).

## Conditions

(6) A licence is subject to such conditions as may be consented to by the applicant, imposed by the Tribunal or prescribed.

## Refusal to issue

**21.**—(1) Subject to section 22, the Registrar may refuse to issue a licence to an applicant if the applicant is not entitled to a licence under subsection 20 (3).

## Refusal to renew

(2) Subject to section 22, the Registrar may refuse to renew or may suspend or revoke a licence,

- (a) for any reason that would disentitle the licensee to a licence under subsection 20 (3) if the licensee were an applicant;
- (b) if the licensee is in breach of a condition of the licence; or
- (c) if the licensee is a corporation and the shareholders of the corporation have changed in the manner and to the extent prescribed.

## Fees

➡ (3) Subject to section 22, the Registrar shall refuse to issue or renew a licence if the applicant has not paid the fee that is prescribed. ➡

## Proposal

**22.**—(1) If the Registrar proposes to refuse to issue or renew a licence, proposes to issue a licence subject to conditions or proposes to suspend or revoke a licence, the Registrar shall serve notice of the proposal, together with written reasons therefor, on the applicant or the licensee.

## Notice

(2) A notice under subsection (1) shall inform the applicant or licensee that the applicant or licensee is entitled to a hearing by the Tribunal if the applicant or licensee mails or delivers to the Registrar and to the Tribunal, within fifteen days after the notice is served on the applicant or licensee, notice in writing requiring a hearing and the applicant or licensee may so require such a hearing.

## No hearing

(3) If an applicant or licensee does not require a hearing by the Tribunal, the Registrar may carry out the proposal stated in the notice to the applicant or licensee.

## Hearing

(4) If an applicant or licensee requires a hearing, the Tribunal shall appoint a time for and hold a hearing.

(5) After holding a hearing, the Tribunal may by order direct the Registrar to carry out the proposal or refrain from carrying out the proposal and to take such action as the Tribunal considers the Registrar ought to take in accordance with this Act and the regulations and for such purposes the Tribunal may substitute its opinion for that of the Registrar.

Order

(6) The Tribunal may attach such conditions to its order or to the licence as it considers proper to give effect to the purposes of this Act.

Conditions

(7) The Registrar, the applicant or licensee who has required the hearing and such other persons as the Tribunal may specify are parties to proceedings before the Tribunal under this section.

Parties

(8) The Registrar may cancel a licence upon the request in writing of the licensee and the surrender of the licence by the licensee.

Cancellation

(9) The Registrar may refer any matter that deals with licensing to the Licensing Committee for their recommendations.

Referral

**23.—**(1) A person who is refused a licence or who is refused a renewal of a licence may apply in writing to the Registrar for the issuance of a licence only if at least one year has passed since the refusal.

Application

(2) A person whose licence is revoked under this Act or whose registration was cancelled under a predecessor of this Act may apply in writing to the Registrar for the issuance of a licence only if at least one year has passed since the revocation or cancellation.

Idem

(3) A person whose licence is suspended under this Act or whose registration was suspended under a predecessor of this Act, for more than one year, may apply in writing to the Registrar for the removal of the suspension only if at least one year has passed since the suspension.

Idem

**24.—**(1) If the Registrar proposes to suspend or revoke a licence, the Registrar may, if the Registrar considers it to be necessary in the public interest, by order, temporarily suspend the licence and the order shall take effect immediately.

Temporary order

(2) If a hearing is required with respect to a proposal to suspend or revoke a licence, the order expires fifteen days after the date of the notice requiring the hearing unless the hearing is commenced, in which case the Tribunal holding the

Hearing

hearing may extend the time of expiration until the hearing is concluded.

No licence

(3) If the Registrar by order temporarily suspends a licence under this section or section 22, the licensee shall during the term of the suspension be considered not to be licensed under this Act.

Stay

R.S.O. 1980,  
c. 274

**25.** Despite the fact that a licensee appeals from an order of the Tribunal under section 11 of the *Ministry of Consumer and Commercial Relations Act*, the order takes effect immediately but the Tribunal may grant a stay until the disposition of the appeal.

Continuation

**26.** If in the time prescribed therefor or, if no time is prescribed before the expiry of the licensee's licence, a licensee applies in the manner prescribed for renewal of the licence and pays the fee prescribed, the licence shall be deemed to continue,

(a) until the renewal is granted; or

(b) if the licensee is served with a notice that the Registrar proposes to refuse to grant the renewal, until the time for giving notice requiring a hearing has expired and, if a hearing is required, until the Tribunal has made its order.

Advertising

**27.—(1)** If the Director or the Registrar believes, on reasonable and probable grounds, that a person licensed under this Act has made a false or misleading public representation or that a representation is in contravention of this Act or the regulations, the Director or the Registrar shall order the person to stop making the representation and in the order shall set out the reasons for the order.

Compliance  
with order

(2) A person who receives an order under subsection (1) shall immediately comply with the order and shall refrain from making the representation, in any form, in the future.

Appeal

(3) Any person who receives an order under subsection (1) may appeal the order to the Tribunal.

Stay of order

(4) The Tribunal may issue a stay of any order made by the Director or Registrar under subsection (1).

Repayment

**28.** If a person is entitled to the repayment of money paid for or on account of funeral services, the operator of the funeral establishment, the funeral director who managed or manages the operation of the funeral establishment and any



funeral director in the employ of the operator of the funeral establishment who received the money or any part thereof are liable jointly and severally with any other person who is liable for the repayment of the money.

**29.** A licence is not required with respect to rites and ceremonies traditionally provided at a place of worship. Place of worship

**30.—**(1) No person other than a person who is licensed to operate a funeral establishment or a transfer service and who is a participant in good standing in the Compensation Fund shall enter into or offer to enter into a prepaid contract with a purchaser. Prepaid contracts

(2) Subsection (1) does not apply to a person selling funeral supplies under the authority of the *Cemeteries Act, 1989*. Idem  
1989, c. ...

**31.—**(1) No licensee shall enter into a prepaid contract that contains a provision for the payment of interment rights in a cemetery lot. Contracts

(2) All goods or services for which a licensee accepts payment in respect of one beneficiary shall be included in one prepaid contract. One contract

(3) No licensee shall enter into a prepaid contract that guarantees the price of any goods or services in the contract unless the price of all goods and services included in the contract are guaranteed. Guarantee

**32.—**(1) Prior to the death of the beneficiary, the purchaser or a person designated in the contract by the purchaser may cancel the contract at any time. Cancellation

(2) Prior to the death of the beneficiary but after the death of the purchaser, the beneficiary or the beneficiary's personal representative may cancel the contract at any time. Idem

(3) After the death of the beneficiary, only the beneficiary's personal representative may at any time cancel the contract prior to the delivery of all the services contracted for. Idem

(4) Subsections (1), (2) and (3) apply to contracts entered into before this Act comes into force. Idem

**33.** No person shall charge or accept any payment with respect to a prearrangement. Prearrangement fees

**34.—**(1) Every person who receives a payment under a prepaid contract shall hold the amount of the payment Trust



together with all income accrued thereon in trust until it is disbursed in accordance with this Act and the regulations.

## Cancellation

(2) If a prepaid contract is cancelled, the person holding the funds in trust under the contract shall forthwith pay the funds and all income accrued thereon to,

- (a) if the prepaid contract is cancelled prior to the death of the beneficiary, the purchaser or the person set out in the contract;
- (b) if the prepaid contract is cancelled prior to the death of the beneficiary but after the death of the purchaser, the beneficiary; or
- (c) if the prepaid contract is cancelled after the death of the beneficiary, the estate of the beneficiary.

## Deductions

(3) If a prepaid contract is cancelled after thirty days of the entering into of the contract, the person paying under subsection (2) may deduct from the amount paid such fees as are prescribed.

## Application

(4) Subsection (1) does not apply to a payment made to an insurer under an insurance contract or plan.

## Repayment

**35.—**(1) If a prepaid contract is fulfilled, the balance, if any, of the prepayment funds that are in excess of the cost of delivering the services and supplies contracted for shall be paid to the beneficiary's estate forthwith despite any contrary provision in the contract.

## Costs

(2) The cost of delivering the services and supplies required under a prepaid contract shall not exceed the amount that would otherwise be charged for the same services and supplies if there had not been prepayment.

## Contract requirements

**36.—**(1) A prepaid contract is not enforceable by an operator of a funeral establishment or transfer service unless,

- (a) it is written, signed by both parties and complies with the regulations;
- (b) it sets out the purchaser's cancellation rights under this Act; and
- (c) the operator delivers a signed copy of the contract to the purchaser at the time the contract is made.

(2) An operator of a funeral establishment or transfer service who receives money under a contract that is not enforceable because of the application of this section shall refund to the purchaser, immediately upon written demand, with interest at the prescribed rate, all money received. Refund with interest

(3) Subsection (2) does not apply after the supplies and services have been provided under the contract. Exception

**37.** Every licensee shall make such information as is prescribed available to the public in the manner and form prescribed. Public information

**38.—(1)** No person shall contact, in any way, a person in a hospital, nursing home or such other institution as is prescribed for the purpose of suggesting that a contract be made. Soliciting prohibited

(2) No person shall contact, by telephone or in person, a person for the purpose of suggesting that a contract be made. Idem

(3) This section does not prohibit, Exception

(a) a contact made at the request of the person being contacted; or

(b) a contact with a licensee.

**39.—(1)** No person shall operate a funeral establishment or transfer service in conjunction with the owner of a cemetery or crematorium in a manner that is prescribed. Prohibition

(2) No person shall operate a funeral establishment or transfer service from locations that are prescribed. Idem

**40.—(1)** If the Director or the Board is of the opinion that a person is not complying with this Act or the regulations, despite the imposition of a penalty in respect of the non-compliance and despite the fact that another remedy may be available, the Director or the Board may apply to a judge of the High Court for an order directing the person to comply. Restraining order

(2) Upon an application under subsection (1), the judge may make the order applied for or such other order as the judge thinks appropriate. Idem

(3) An appeal lies to the Divisional Court from an order made under subsection (2). Idem

**41.—(1)** If the Director has reasonable and probable grounds to believe that a licensee is doing or is about to do Freezing assets

something that will jeopardize the public interest, the Director may direct any person holding, having on deposit or controlling assets of the licensee or trust funds under the control of the licensee to hold the assets or trust funds until further instructions are received from the Director to release a particular asset or trust fund from the direction.

Scope of  
direction

(2) In the case of a bank or a corporation, a direction under subsection (1) applies only to the offices, branches or agencies thereof named in the direction.

Application  
for directions

(3) Any person named in a direction issued under subsection (1), if in doubt as to the application of the direction to particular assets or trust funds, may apply to the Director for an order of clarification.

Revocation  
or  
amendment  
of direction

(4) On an application of a licensee or any other person having an interest therein, the Director may make an order on such conditions as are set out in the order revoking the direction or consenting to the release of a particular asset or trust fund from the direction.

Appeal

(5) A person affected by a direction or order of the Director made under this section or a refusal to make an order may appeal to the Tribunal.

Application

(6) Subsections 14 (6) to (11) apply with necessary modifications to an appeal to the Tribunal from a direction or order of the Director.

Inspectors

**42.—**(1) The Registrar or a Director may appoint inspectors for the purpose of determining whether there is compliance with this Act and the regulations.

Certificate of  
appointment

(2) An inspector exercising a power under this Act shall, on request, produce his or her certificate of appointment.

Inspections

**43.—**(1) For the purpose of ensuring compliance with this Act and the regulations, an inspector may,

- (a) enter any place at any reasonable time;
- (b) request the production for inspection of documents or things that may be relevant to the inspection;
- (c) inspect and, upon giving a receipt therefor, remove, for the purpose of making copies or extracts, documents or things relevant to the inspection;



- (d) inquire into negotiations, transactions, loans or borrowings of a licensee and into assets owned, held in trust, acquired or disposed of by a licensee that are relevant to an inspection;
- (e) conduct such tests as are reasonably necessary; and
- (f) remove materials or substances for examination or test purposes subject to the licensee or other occupant of the premises being notified thereof.

(2) Subsection (1) does not apply to confer a power of entry to a room actually used as a dwelling without the consent of the occupier. Entry to dwellings

(3) A justice of the peace may issue a warrant authorizing the person named in the warrant, Warrant

- (a) to do anything set out in clause (1) (a), (c), (e) or (f);
- (b) to search for and seize any document or thing relevant to the inspection; or
- (c) to enter and search a room actually used as a dwelling.

(4) A warrant may be issued under subsection (3) if the justice of the peace is satisfied on information under oath that, in the case of a warrant to be issued under, Requirements for warrant to issue

- (a) clause (3) (a), an inspector has been prevented from doing anything permitted under clause (1) (a), (c), (e) or (f) or there is reasonable ground to believe that an inspector may be prevented from doing any of those things;
- (b) clause (3) (b), to search for and seize a document or thing that there is reasonable ground to believe will afford evidence relevant to a contravention of this Act or the regulations; or
- (c) clause (3) (c), it is necessary that a room actually used as a dwelling be entered for the purposes of carrying out an inspection or there is, in such a room, a document or thing that there is reasonable ground to believe is relevant to an inspection under this Act.



Execution of  
warrant

(5) A warrant issued under this section shall specify the hours and days during which it may be executed.

Expiry

(6) Unless renewed, a warrant under this section expires not later than thirty days after the date on which it is made.

Notice not  
required

(7) A warrant under this section may be issued or renewed before or after expiry upon application without notice.

Experts

(8) An inspector is entitled to call upon such experts as are necessary to assist the inspector in carrying out an inspection under this Act.

Assistance

(9) A person doing anything under the authority of a warrant issued under this section is authorized to call on such police officers to assist and to use such force as is necessary in the execution of the warrant.

Copies

(10) An inspector taking material in order to copy it shall make the copy with reasonable dispatch and shall promptly return the material taken.

Admissibility  
of copies

(11) Copies of, or extracts from, documents and things removed under this section and certified as being true copies of, or extracts from, the originals by the person who made them are admissible in evidence to the same extent as, and have the same evidentiary value as, the documents or things of which they are copies or extracts.

Obstruction  
of inspector

**44.**—(1) No person shall obstruct an inspector in carrying out an inspection under this Act or withhold, destroy, conceal or refuse to provide any relevant information or thing required for the purpose of the inspection.

Facilitating  
inspection

(2) It is a condition of each licence issued under this Act that the licensee facilitate an inspection relevant to the licence.

Appointment  
of receiver  
and manager

**45.**—(1) The Director or Registrar may apply to a judge or a local judge of the Supreme Court for the appointment of a receiver and manager of an involved funeral establishment or transfer service if,

- (a) the Director or Registrar has reasonable and probable grounds to believe that a person licensed under this Act has failed or is about to fail to provide contracted and paid for funeral services to a client;
- (b) the Director or Registrar is advised that a proposal to suspend or revoke a licence under section 21 or

to temporarily suspend a licence under section 24 has been made; or

- (c) the Director has directed or is about to make a direction under section 41.

(2) A judge, upon an application being made under subsection (1), without notice or, if the judge considers that notice should be given, upon such notice as the judge stipulates, may, if it is considered in the public interest and subject to the *Bankruptcy Act* (Canada), appoint a receiver and manager to take possession and control of the business of the person in respect of whom an action referred to in subsection (1) applies for a period not exceeding sixty days.

Idem

R.S.C. 1985,  
c. B-3

(3) An appointment made under subsection (2) may be extended, upon an application without notice, for an additional period not exceeding sixty days.

Extension

(4) A receiver and manager appointed under subsection (2) shall take possession and control of the assets of the business and shall thereafter conduct the business and take such steps as in the opinion of the receiver and manager should be taken toward its rehabilitation.

Receiver and  
manager  
taking  
control

(5) For the purposes of subsection (4), the receiver and manager have all the powers of the board of directors of the corporation, if the business is a corporation, or of a sole proprietor or all partners if the business is not a corporation and, without limiting the generality of the foregoing, the receiver and manager may,

Idem

- (a) exclude the directors, officers, servants and agents of the business from the premises and property of the business; and
- (b) carry on, manage and conduct the operations of the business and in the name of the business preserve, maintain, realize, dispose of and add to the property of the business and receive the incomes and revenues of the business.

(6) An order made under this section may be enforced in the same manner as any order or judgment of the Supreme Court and may be varied or discharged upon an application made by notice.

Enforcement  
of order

(7) Upon an application being made under this section, the rules of practice of the Supreme Court apply.

Rules of  
practice

## Regulations

**46.**—(1) The Lieutenant Governor in Council may make regulations,

1. prescribing the manner in which trust accounts shall be kept and accounted for;
2. providing for the inspection of trust accounts;
3. prescribing the duties of depositories with respect to trust funds held under this Act;
4. requiring receipts to be given by licensees with respect to contracts;
5. providing for the establishment, maintenance and administration of the Compensation Fund;
6. prescribing provisions that relate to the investing and paying out of moneys from the Compensation Fund;
7. providing for the payment of levies into the Compensation Fund and prescribing the amounts of levies;
8. providing for appeals from a refusal to pay out of the Compensation Fund;
9. governing the powers and duties of the trustee administering the Compensation Fund;
10. requiring the purchase of bonds for the purpose of indemnifying the Compensation Fund;
11. prescribing the terms and amounts of bonds;
12. providing for payment out of the Compensation Fund of claims and procedures to be followed with respect thereto;
13. requiring participation in the Compensation Fund by licensees;
14. on any matter relating generally to the purchase, renewal or terms of a bond or the disposition of payments received thereunder;
15. governing the form and content of contracts and receipts, including the cancellation of contracts;

16. prescribing the terms that a contract shall be deemed to contain;
17. prescribing conditions under which contracts may be assigned and prohibiting assignments that are not in accordance with the prescribed conditions;
18. regulating, limiting or prohibiting the soliciting of contracts;
19. governing the term during which each class or type of licence is valid;
20. exempting any person or thing or class of person or thing from the application of any provision of this Act or the regulations and prescribing conditions for any exemption;
21. authorizing persons, other than funeral directors, to perform specified acts in the providing of funeral services under the supervision or direction of a funeral director;
22. governing the books, accounts, records and information that shall be kept by licensees and that shall be filed with the Registrar;
23. prescribing fees and requiring the payment of fees;
24. prescribing forms and providing for their use;
25. prescribing educational requirements and testing requirements on an initial and ongoing basis for licensees and employees of licensees;
26. governing applications for licences and renewals of licences;
27. prescribing classes of licences;
28. governing the requirements and qualifications for the issuing of licences and prescribing the conditions for obtaining and maintaining a licence;
29. governing standards of practice and operation for licensees;
30. respecting the methods and materials that may be used in providing funeral services;



31. prohibiting or governing the advertising of funeral services or funeral supplies and prohibiting or governing the display of funeral supplies to the public;
32. governing the construction, location, equipment, maintenance, repairs, additions and alterations to funeral establishments and governing the information, plans and materials to be furnished to the Registrar with respect thereto;
33. governing the equipment and practices, including hygienic practices, with respect to the embalming, transportation, preparation and disposal of dead human bodies;
34. regulating, controlling and prohibiting the use of terms, titles or designations by licensees;
35. prescribing practices or actions that are evidence of incompetence or lack of honesty and integrity;
36. governing the availability and display of funeral services and funeral supplies;
37. prescribing specifications and minimum requirements for funeral services and funeral supplies;
38. prescribing, for any notice required to be given under this Act, the type of notice and the manner in which it is to be given;
39. governing the payment of money into and out of trust funds, including the time within which and the circumstances under which payments are to be made;
40. providing for the maintenance and inspection of registers of persons who are licensed;
41. prescribing anything that is referred to in this Act as being prescribed.

Limited  
application

(2) A regulation made under this Act may be of limited application.

Retroactive

(3) A regulation made under this section may be retroactive in effect and may apply to contracts entered into before this Act comes into force.

Offence

**47.—**(1) Every person who,

- (a) furnishes false, misleading or incomplete information in an application under this Act or in a statement or return required to be furnished under this Act or the regulations;
- (b) fails to comply with a direction or order made under this Act; or
- (c) contravenes any provision of this Act or the regulations,

is guilty of an offence.

(2) Every director or officer of a corporation who concurs in an offence under this Act is guilty of an offence. Idem

(3) An individual who is convicted of an offence under this Act is liable to a fine of not more than \$20,000 and on a subsequent conviction to a fine of not more than \$20,000 and to imprisonment for a term of not more than one year. Idem

(4) A corporation that is convicted of an offence under this Act is liable to a fine of not more than \$40,000. Idem

(5) No proceeding under this section shall be commenced more than two years after the facts upon which the proceedings are based first came to the knowledge of the Director. Limitation

(6) A statement as to the time when the facts upon which proceedings are based first came to the knowledge of the Director purporting to be certified by the Director is, without proof of the office or signature of the Director, admissible in evidence in any proceeding, in the absence of evidence to the contrary, as evidence of the facts stated therein. Certificate as evidence

(7) If a person is convicted of an offence under this Act, the court making the conviction may, in addition to any other penalty, order the person convicted to make compensation or restitution in relation thereto. Restitution

**48.—**(1) Every person employed in the administration of this Act, including any person making an inspection under this Act and any member of the Board or a committee of the Board, shall preserve secrecy with respect to all matters that come to the person's knowledge in the course of the person's duties, employment, inquiry or inspection and shall not communicate any such information to any other person except, Matters confidential

- (a) as may be required in connection with the administration of this Act and the regulations or any proceedings under this Act or the regulations;
- (b) to the person's counsel;
- (c) with the consent of the person to whom the information relates; or
- (d) to an employee of the Ministry of Consumer and Commercial Relations or to an employee of another ministry who requires the information in the performance of his or her duties and if disclosure is necessary for the administration of this Act or any other Act and the regulations thereunder administered by the Minister.

Idem

(2) The Ministry of Consumer and Commercial Relations or another ministry may disclose information in its custody or control to an employee of the Board if,

- (a) the personal information is reasonably required to verify the truth of the contents of an application for, or an application for renewal of, a licence or to verify the truth of any other information supplied in support of any such application; or
- (b) the Ministry or agency of the Ministry has reasonable grounds to believe that the personal information is relevant to a person's qualification to hold a licence.

Testimony in  
civil suit

(3) No person to whom subsection (1) applies shall be required to give testimony in any civil suit or proceeding with regard to information obtained by the person in the course of the person's duties, employment, inquiry, investigation or inspection except in a proceeding under this Act or the regulations.

Certificate as  
evidence

**49.** A statement as to,

- (a) the licensing or non-licensing of any person;
- (b) the filing or non-filing of any document or material required or permitted to be filed with the Registrar; or
- (c) any other matter pertaining to licensing, non-licensing, filing or non-filing,



containing information from the records kept by the Registrar under this Act purporting to be certified by the Registrar under the seal of the Board is, without proof of the office or signature of the Registrar, admissible in evidence in any proceeding, in the absence of evidence to the contrary, as evidence of the facts stated therein.

**50.**—(1) A notice, order or other document under this Act or the regulations is sufficiently given, served or delivered if delivered personally or sent by first class mail addressed to the person to whom it is to be given, served or delivered at that person's last known address. Service

(2) A notice, order or other document sent by first class mail in accordance with subsection (1) shall be deemed to be given, served or delivered on the fifth day after the day of mailing, unless the person to whom it is sent establishes that the notice, order or other document was not received until a later date because of absence, accident, illness or other cause beyond that person's control. Idem

**51.**—(1) A funeral director who is registered with the Board of Funeral Services under the *Funeral Services Act* on the date this Act comes into force is deemed to be licensed as a funeral director until the expiration of the licence, unless the licence is sooner surrendered, suspended or revoked. Transition  
R.S.O. 1980,  
c. 180

(2) A person who is licensed with the Board of Funeral Services under the *Funeral Services Act* to establish and maintain a funeral services establishment on the date this Act comes into force is deemed to be licensed to operate a funeral establishment until the expiration of the licence, unless the licence is sooner surrendered, suspended or revoked. Idem

**52.** The board known as the Funeral Services Review Board is dissolved and any matter before the Board on the date this Act comes into force shall be dealt with by the Tribunal. Funeral  
Services  
Review  
Board not  
continued

**53.** The following are repealed: Repeals

1. The *Funeral Services Act*, being chapter 180 of the Revised Statutes of Ontario, 1980.
2. Section 3 of the *Mobility Rights Statute Law Amendment Act, 1985*, being chapter 5.
3. The *Prearranged Funeral Services Act*, being chapter 387 of the Revised Statutes of Ontario, 1980.



Commence-  
ment

**54.** This Act comes into force on a day to be named by proclamation of the Lieutenant Governor.

Short title

**55.** The short title of this Act is the *Funeral Directors and Establishments Act, 1989*.





# Bill 30

*(Chapter 49  
Statutes of Ontario, 1989)*

## **An Act respecting Funeral Directors and Establishments**

**The Hon. G. Sorbara**  
*Minister of Consumer and Commercial Relations*

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<i>1st Reading</i>	June 12th, 1989
<i>2nd Reading</i>	June 21st, 1989
<i>3rd Reading</i>	October 16th, 1989
<i>Royal Assent</i>	October 16th, 1989

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**Bill 30**

**1989**

**An Act respecting  
Funeral Directors and Establishments**

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

**1. In this Act,**

Definitions

“beneficiary” means a person for whom funeral services or supplies, or both, are to be provided under a contract or prepaid contract;

“Board” means the Board of Funeral Services;

“cemetery” means a cemetery within the meaning of the *Cemeteries Act, 1989*; 1989, c. 50

“Compensation Fund” means the Prepaid Funeral Services Compensation Fund established under the regulations;

“contract” means an agreement wherein a person provides or agrees to provide funeral services or supplies, or both or for the transportation of a dead human body, and includes prepaid contracts;

“depository” means a chartered bank, loan or trust company, Province of Ontario Savings Office or a credit union as defined in the *Credit Unions and Caisses Populaires Act*;

R.S.O. 1980,  
c. 102

“Director” means a director appointed under the *Ministry of Consumer and Commercial Relations Act*;

R.S.O. 1980,  
c. 274

“disbursements” means payments actually made by a funeral director or a person who operates a funeral establishment on behalf of a purchaser of funeral services or supplies, or both;

“embalming” means the preservation and disinfection of all or part of a dead human body by any means other than by refrigeration;

“equity share” means a share of a class of shares that carries a voting right either under all circumstances or under some circumstances that have occurred and are continuing;

“funeral” means a rite or ceremony in connection with the death of a person where the body is present;

“funeral director” means an individual who provides or directs the providing of funeral services;

“funeral establishment” means premises where funeral services are supplied;

“funeral services” means the care and preparation of dead human bodies and the co-ordination of rites and ceremonies with respect to dead human bodies, but does not include services provided by a cemetery or crematorium owner under the *Cemeteries Act, 1989*;

1989, c. 50

“funeral supplies” means goods that are used in connection with the care and preparation of dead human bodies or the disposition of dead human bodies;

“income” means the interest or money earned, including the compounding thereof, by the investment of funds received under a prepaid contract;

“licence” means a licence issued under this Act and “licensed” has a corresponding meaning;

“Minister” means the Minister of Consumer and Commercial Relations;

“prearrangement” means an arrangement for the provision of specific funeral services, supplies or transportation of a dead human body on the death of a person who is alive at the time the arrangement is made;

“prepaid contract” means an agreement whereby a person contracts with a purchaser to provide or make provision for funeral services, funeral supplies, or both, or for the transportation of a dead human body, including disbursements, upon the death of a beneficiary, if any payment for the contract is made prior to the death of the beneficiary or the purchaser enters into an insurance contract or plan under which a licensee is to receive directly or indirectly the pro-

ceeds of the insurance policy upon the death of the beneficiary;

“prepayment” means the payment or the guarantee of a payment pursuant to a prepaid contract;

“prepayment funds” means the money deposited in trust under the provisions of this Act and the income therefrom and includes the proceeds of an insurance policy received by a licensee;

“prescribed” means prescribed by the regulations;

“Registrar” means the Registrar of the Board;

“regulations” means regulations made under this Act;

“transfer service” means a service to the public with respect to the disposition of dead human bodies, including the transportation of dead human bodies and the filling out of the necessary documentation with respect to the disposition of dead human bodies;

“Tribunal” means The Commercial Registration Appeal Tribunal.

**2.—**(1) There shall be a Registrar appointed by the Board Registrar  
for the purposes of this Act.

(2) The Registrar may exercise the powers and shall perform the duties conferred or imposed on the Registrar by or Powers of Registrar  
under this Act under the supervision of the Board.

(3) The Registrar shall maintain one or more registers in Registers  
which is entered,

- (a) the name of every person licensed under this Act;
- (b) any conditions and limitations imposed on a licence by the Registrar, a Committee or the Tribunal;
- (c) the fact and date of each revocation, suspension, cancellation or termination of a licence;
- (d) the fact and amount of each fine imposed by the Discipline Committee, except if the Discipline Committee directs that no entry with respect to a fine be made;



- (e) the fact of each reprimand made by the Discipline Committee, except if the Discipline Committee directs that no entry with respect to the reprimand be made; and
- (f) such other information in addition to that set out in clauses (a) to (e) as is prescribed.

Inspection

(4) Any person has the right, during normal business hours, to inspect the registers maintained by the Registrar.

Copies

(5) The Registrar shall provide to any person, upon payment of a reasonable charge therefor, a copy of any part of the registers maintained by the Registrar.

Board  
continued

**3.—**(1) The Board of Funeral Services, a body corporate, is continued as a corporation without share capital.

Principal  
object

(2) The principal object of the Board is to regulate the practices of funeral directors and persons who operate funeral establishments and transfer services in accordance with this Act, the regulations and the by-laws in order that the public interest may be served and protected.

Additional  
objects

(3) For the purpose of carrying out its principal object, the Board has the following additional objects:

1. To establish, maintain and develop standards of knowledge and skill among funeral directors and persons who operate funeral establishments and transfer services.
2. To establish, maintain and develop standards of qualification and standards of practice for funeral directors and persons who operate funeral establishments and transfer services.
3. To establish, maintain and develop standards of professional ethics among funeral directors and persons who operate funeral establishments and transfer services.
4. To administer the Compensation Fund.
5. To oversee and inspect trust accounts that funeral establishments and transfer services are required by law to establish or maintain.
6. To mediate complaints between consumers and licensees.

7. To establish and develop standards for funeral establishments.
8. To perform such other duties and exercise such other powers as are imposed or conferred on the Board by or under any Act.

(4) For the purpose of carrying out its objects, the Board has the capacity and the powers of a natural person.

Capacity and  
powers of  
Board

(5) The Board shall,

Duties of  
Board

- (a) review the operation of this Act and the regulations and make recommendations to the Minister thereon;
- (b) approve or set courses of study and examinations for the qualification of applicants for licences; and
- (c) carry out such duties as are prescribed.

4.—(1) The Board shall be composed of the following members appointed by the Lieutenant Governor in Council:

Composition

1. A prescribed number of funeral directors, one of whom,

i. is not licensed to operate a funeral establishment,

ii. is not a director of a corporation that is licensed to operate a funeral establishment, and

iii. does not direct the operation of a funeral establishment.

2. A prescribed number of persons who are not funeral directors.

(2) The members of the Board shall be appointed to hold office for a term not exceeding three years and may be reappointed for further successive terms, but shall not be appointed or reappointed for more than six successive years.

Term of  
office

(3) A vacancy on the Board caused by the death, resignation, removal or incapacity to act of a member may be filled by the appointment by the Lieutenant Governor in Council of a person to hold office for the unexpired portion of the term of office of such member.

Vacancy

## Quorum

(4) Five members of the Board, at least two of whom shall be members appointed under paragraph 2 of subsection (1), constitute a quorum.

## Officers

(5) The Board shall appoint a chairperson and vice-chairperson and such other officers as are considered necessary from among the members of the Board.

## Expenses and remuneration of members of Board

(6) The members of the Board,

- (a) appointed under paragraph 1 of subsection (1) shall be paid by the Board such expenses and remuneration as are prescribed; and
- (b) appointed under paragraph 2 of subsection (1) shall be paid, out of the moneys appropriated therefor by the Legislature, such expenses and remuneration as are determined by the Lieutenant Governor in Council.

## Staff

(7) The Board may employ such employees and retain such assistance as is necessary to perform the work of the Board and may determine their salary, remuneration and terms and conditions of employment.

## Meetings of Board

(8) The Board shall meet at least four times a year.

## Continuation of Board members

(9) The members of the Board who were in office immediately before the coming into force of this Act are continued in office until the expiration of their terms or until their offices otherwise become vacant.

## Annual report

(10) The Board shall deliver to the Minister each year an annual report on the affairs of the Board and on the operation of the Compensation Fund.

## Idem

(11) The Minister shall submit the annual report to the Lieutenant Governor in Council and shall then lay the report before the Assembly if it is in session or, if not, at the next session.

## Powers of Minister

**5.** The Minister may, in addition to any other powers and duties conferred on the Minister by or under any Act,

- (a) review the activities of the Board;
- (b) request the Board to undertake activities that, in the opinion of the Minister, are necessary and advisable to carry out the intent of this Act;

- (c) advise the Board with respect to the implementation of this Act and the regulations and with respect to the methods used or proposed to be used by the Board to implement policies and to enforce its by-laws and procedures.

**6.—(1)** The Board may pass by-laws relating to the administrative and domestic affairs of the Board not inconsistent with this Act and the regulations and, without limiting the generality of the foregoing, By-laws

1. specifying the seal of the Board;
2. providing for the execution of documents by the Board;
3. respecting banking and finance;
4. fixing the financial year of the Board and providing for the audit of the accounts and transactions of the Board;
5. respecting the calling, holding and conducting of meetings of the Board and committees of the Board and the duties of members of the Board and committees of the Board;
6. providing for a code of ethics;
7. delegating to the Executive Committee such powers and duties of the Board as are set out in the by-laws, other than the power to make, amend or revoke regulations and by-laws;
8. respecting the calling, holding and conducting of meetings of licensees;
9. providing for the use of forms;
10. providing procedures for the making, amending and revoking of the by-laws;
11. respecting management of the property of the Board;
12. providing for the appointment, composition, powers and duties of committees in addition to those committees established under subsection 7 (1);



13. respecting the application of the funds of the Board and the investment and reinvestment of any of its funds not immediately required, and for the safe-keeping of its securities;
14. respecting membership of the Board in other organizations, the payment of annual assessments and provision for representatives at meetings;
15. respecting the appointment of inspectors by the Registrar for the purposes of this Act;
16. providing for meetings of the Board and committees, except in a proceeding in respect of a licence, by means of conference telephone or other communications equipment by means of which all persons participating in the meeting can hear each other, and a member of the Board or committee participating in a meeting in accordance with such by-law shall be deemed to be present in person at the meeting;
17. providing that the Board or a committee may act upon a resolution consented to by the signatures of all members of the Board or the committee except in a proceeding in respect of a licence, and a resolution so consented to in accordance with such a by-law is as valid and effective as if passed at a meeting of the Board or the committee duly called, constituted and held for that purpose;
18. providing for the payment of necessary expenses of the Board and committees of the Board in the conduct of their business;
19. providing for the Board to enter into arrangements on behalf of licensees with respect to the bonding of licensees and requiring the payment and remittance of premiums in connection therewith, setting levies that shall be paid by licensees and exempting licensees or any class thereof from all or any part of such levy;
20. providing for the establishment of group insurance plans, other than for professional liability, in which licensees may participate on a voluntary basis;
21. regarding such other matters as are entailed in carrying on the business of the Board.

(2) A copy of the by-laws made under subsection (1) and amendments thereto, Distribution of by-laws

- (a) shall be forwarded to the Minister;
- (b) shall be forwarded to each licensee; and
- (c) shall be available for public inspection in the office of the Board.

(3) At any time before or after receiving a copy of a by-law made under subsection (1), the Minister may, by an order in writing, revoke or amend the by-law. Minister may revoke or amend by-laws

(4) Despite subsection (3), a by-law is effective until so revoked or amended by the Minister and no act done or right acquired under any such by-law before revocation or amendment by the Minister is prejudicially affected by the revocation or amendment. Idem

**7.—**(1) The Board shall establish and appoint the following committees: Establishment of committees

1. Executive Committee.
2. Licensing Committee.
3. Complaints Committee.
4. Discipline Committee.
5. Compensation Fund Committee.

(2) The Board may establish such other committees in addition to those established under subsection (1) as the Board from time to time considers necessary. Idem

(3) If one or more vacancies occur in the membership of a committee, the members remaining constitute the committee so long as their number is not fewer than a quorum of the committee. Vacancies

**8.—**(1) The Executive Committee shall be composed of three persons who are members of the Board, one of whom shall be a person appointed under paragraph 2 of subsection 4 (1). Executive Committee

(2) The Board shall name one member of the Executive Committee to be chairperson. Chairperson

Quorum (3) Two members of the Executive Committee constitute a quorum.

Powers of Executive Committee (4) The Board may delegate to the Executive Committee the authority to exercise any power or perform any duty of the Board, other than to make, amend or revoke a by-law.

Urgent matters (5) Subject to ratification by the Board at its next ensuing meeting, the Executive Committee may take action upon any other matter that requires immediate attention between meetings of the Board, other than to make, amend or revoke a by-law.

Licensing Committee **9.**—(1) The Licensing Committee shall be composed of three persons who are members of the Board, one of whom shall be a person appointed under paragraph 2 of subsection 4 (1).

Chairperson (2) The Board shall name one member of the Licensing Committee to be chairperson.

Quorum (3) Two members of the Licensing Committee constitute a quorum.

Complaints Committee **10.**—(1) The Complaints Committee shall be composed of three persons who are members of the Board, one of whom shall be a person appointed under paragraph 2 of subsection 4 (1).

Chairperson (2) The Board shall name one member of the Complaints Committee to be chairperson.

Quorum (3) Two members of the Complaints Committee constitute a quorum.

Discipline Committee **11.**—(1) The Discipline Committee shall be composed of four members of the Board, two of whom shall be persons appointed under paragraph 2 of subsection 4 (1).

Chairperson (2) The Board shall name one member of the Discipline Committee to be chairperson.

Quorum (3) Three members of the Discipline Committee constitute a quorum.

Majority vote (4) All disciplinary decisions of the Discipline Committee require the vote of a majority of the members of the Discipline Committee present at the hearing.



(5) If the Discipline Committee commences a hearing and a member of the Discipline Committee is unable to continue to act, the remaining members may complete the hearing despite the absence of the member.

Disability of member

**12.—**(1) The Compensation Fund Committee shall be composed of three persons who are members of the Board, two of whom shall be persons appointed under paragraph 2 of subsection 4 (1).

Compensation Fund Committee

(2) The Board shall name one member of the Compensation Fund Committee to be chairperson.

Chairperson

(3) Two members of the Compensation Fund Committee constitute a quorum.

Quorum

**13.—**(1) The Licensing Committee shall consider all matters that are referred to it by the Registrar under section 22.

Powers and duties of Licensing Committee

(2) The Licensing Committee may make recommendations to the Registrar with respect to,

Recommendations

(a) the eligibility of an applicant for a licence or a renewal of a licence;

(b) issuing or refusing to issue a licence to an applicant for a licence or a renewal of a licence;

(c) issuing a licence or a renewal of a licence to an applicant subject to conditions;

(d) suspending or revoking the licence of a licensee;

(e) the desirability of requiring an applicant for a licence or a renewal of a licence or a licensee to take and pass such additional training or part thereof that may be prescribed; or

(f) exempting an applicant for a license or a renewal of a licence or a licensee from any licensing requirement.

**14.—**(1) The Complaints Committee shall consider and investigate complaints regarding the conduct or actions of any licensee, but no action shall be taken by the Complaints Committee under subsection (2) unless,

Duties of Complaints Committee

(a) a written complaint has been filed with the Registrar and the licensee whose conduct or actions are being investigated has been notified of the com-



plaint and given at least two weeks in which to submit in writing to the Committee any explanations or representations the licensee may wish to make concerning the matter; and

- (b) the Committee has examined or has made every reasonable effort to examine all records and other documents relating to the complaint.

Idem

(2) The Complaints Committee in accordance with the information it receives may,

- (a) consider all or part of the matter;
- (b) direct that all or part of the matter be referred to the Discipline Committee; and
- (c) subject to subsection (9), take or recommend such action that it considers appropriate in the circumstances and that is not inconsistent with this Act, the regulations or the by-laws.

Decisions  
and reasons

(3) The Complaints Committee shall advise the Registrar in writing of the action it proposes to take or recommend and its reasons therefor.

Notice

(4) Subsections (3) and (6) do not apply to a matter that is referred to the Discipline Committee.

Hearing

(5) The Complaints Committee is not required to hold a hearing or to afford any person an opportunity for a hearing or to make oral submissions before it prior to it taking action or making a recommendation under this section.

Notice

(6) The Registrar shall send to the complainant and to the person complained against by prepaid first class mail a copy of the proposal of the Complaints Committee and its reasons therefor, if any, together with notice that informs the person to whom it is sent that the person is entitled to a hearing by the Tribunal if the person mails or delivers to the Registrar and to the Tribunal, within fifteen days after the notice is served on the person, notice in writing requiring a hearing and the person may so require such a hearing.

No hearing

(7) If a complainant or the person complained against does not require a hearing by the Tribunal, the Complaints Committee may carry out the proposal stated in the notice to the complainant or the person complained against.

(8) If the complainant or the person complained against requires a hearing, the Tribunal shall appoint a time for and hold a hearing. Hearing

(9) After holding a hearing, the Tribunal may by order direct the Complaints Committee to carry out the proposal or refrain from carrying out the proposal and to take such action as the Tribunal considers the Complaints Committee ought to take in accordance with this Act and the regulations and, for such purposes, the Tribunal may substitute its opinion for that of the Complaints Committee. Order

(10) The Tribunal may attach such conditions to its order as it considers proper to give effect to the purposes of this Act. Conditions

(11) The Registrar, the person who required the hearing and such other persons as the Tribunal may specify are parties to proceedings before the Tribunal under this section. Parties

**15.** Despite subsection 14 (1), the Board or the Executive Committee may direct the Discipline Committee to hold a hearing and determine any allegation of professional misconduct or incompetence on the part of a funeral director. Reference by Board or Executive Committee

**16.—(1)** The Discipline Committee shall, Duties of Discipline Committee

(a) when so directed by the Board, Executive Committee or Complaints Committee, hear and determine allegations of professional misconduct or incompetence against a funeral director;

(b) hear and determine matters referred to it by the Board, Registrar, Executive Committee or Complaints Committee under this Act with respect to funeral directors; and

(c) perform such other duties as are assigned to it by the Board.

(2) A funeral director may be found guilty of professional misconduct by the Discipline Committee if, Professional misconduct

(a) the funeral director has been found guilty of an offence that is relevant to the funeral director's suitability to practise as a funeral director, upon proof of such conviction; or

(b) the funeral director has been guilty in the opinion of the Discipline Committee of professional misconduct as prescribed.

Incompetence (3) The Discipline Committee may find a funeral director to be incompetent if in its opinion,

- (a) the funeral director has displayed in the providing or in directing the providing of funeral services or funeral supplies or in performing or supervising the performing of an embalming, a lack of knowledge, skill or judgment of a nature or to an extent that demonstrates the funeral director is unfit to continue as a funeral director;
- (b) the funeral director is suffering from a physical or mental condition or disorder of a nature and extent that makes it desirable in the interest of the public that the funeral director no longer be permitted to continue as a funeral director.

Examinations (4) If the Discipline Committee is required to hear and determine allegations of incompetence under clause (3) (b), the Discipline Committee may require the funeral director who is the subject of the hearing to submit to a physical or mental examination, or both, by such persons as the Board designates.

Suspension of licence (5) If a funeral director fails to submit to an examination required under this section, the Discipline Committee may order that the licence of the funeral director be suspended until the funeral director submits to the examination.

Evidence (6) A legally qualified medical practitioner who conducts a physical or mental examination required under this section is not compellable to produce at the hearing his or her case histories, notes or any other records that may constitute medical evidence.

Report (7) A person who conducts an examination under this section shall upon completing the examination forthwith prepare and deliver to the Registrar a report that contains facts, findings and conclusions and suggested treatment, if any.

Idem (8) A report that is prepared as a result of an examination that is conducted under this section shall be delivered by the Registrar to the funeral director,

- (a) if the examination is required prior to the hearing, at least five days prior to the commencement of the hearing; or



- (b) if the examination is required during the course of the hearing, at least five days prior to its introduction as evidence.

(9) A report that is prepared as a result of an examination that is conducted under this section is receivable as evidence without proof of its making or the signature of the person making the report. Idem

(10) A party to the hearing who is not tendering a report as evidence has the right to summon and cross examine the person who made the report on the contents of the report. Right to cross examine

(11) If the Discipline Committee finds a funeral director guilty of professional misconduct or incompetence, it may by order do any of the following things or any combination of the following things: Powers of Discipline Committee

1. Revoke the licence of the funeral director.
2. Suspend the licence of the funeral director for a stated period.
3. Impose restrictions on the licence of the funeral director for a period and subject to the conditions specified by the Discipline Committee.
4. Reprimand the funeral director.
5. Impose such fine as the Discipline Committee considers appropriate to a maximum of \$10,000 to be paid by the funeral director to the Treasurer of Ontario for payment into the Consolidated Revenue Fund.
6. Direct that the imposition of a penalty be suspended or postponed for the period and upon the terms specified by the Discipline Committee.

(12) If the Discipline Committee imposes a fine or reprimands a funeral director, the Discipline Committee may direct that the fine or the reprimand not be entered in the applicable register. Entry on register

(13) If the Discipline Committee is of the opinion that the commencement of the proceedings was unwarranted, the Committee may order that the Board reimburse the funeral director for the funeral director's costs or such portion thereof as the Discipline Committee fixes. Costs



Stay on  
appeal for  
incompetence

(14) If the Discipline Committee revokes, suspends or restricts a licence on the grounds of incompetence, the decision takes effect immediately despite the fact that an appeal is taken from the decision, unless the Tribunal otherwise orders and, where the Tribunal is satisfied that it is appropriate in the circumstances, the Tribunal may so order.

Stay on  
appeal for  
professional  
misconduct

(15) If the Discipline Committee revokes, suspends or restricts a licence on grounds other than for incompetence, the order does not take effect until the time for appeal from the order has expired without an appeal being taken or, if taken, the appeal has been disposed of or abandoned, unless the Discipline Committee otherwise orders, and, where the Committee considers that it is appropriate for the protection of the public, the Committee may so order.

Service of  
decision of  
Discipline  
Committee

(16) If the Discipline Committee finds a funeral director guilty of professional misconduct or incompetence, a copy of the decision shall be served upon the person complaining in respect of the conduct or action of the funeral director.

Continuation  
on expiry of  
Committee  
membership

(17) If a proceeding is commenced before the Discipline Committee and the term of office on the Board or on the Committee of a member sitting for the hearing expires or is terminated before the proceeding is disposed of but after evidence has been heard, the member shall be deemed to remain a member of the Discipline Committee for the purpose of completing the disposition of the proceeding in the same manner as if his or her term of office had not expired or been terminated.

Parties to  
discipline  
proceedings

**17.—**(1) In proceedings before the Discipline Committee, the Board and the funeral director whose conduct is being investigated in the proceedings are parties to the proceedings.

Examination  
of  
documentary  
evidence

(2) A funeral director whose conduct is being investigated in proceedings before the Discipline Committee shall be afforded an opportunity to examine before the hearing any written or documentary evidence that will be produced or any report the contents of which will be given in evidence at the hearing.

Members  
holding  
hearing not  
to have  
taken part in  
investigation,  
etc.

(3) Members of the Discipline Committee holding a hearing shall not have taken part before the hearing in any investigation of the subject-matter of the hearing other than as a member of the Board considering the referral of the matter to the Discipline Committee or at a previous hearing of the Committee.

(4) Members of the Discipline Committee shall not communicate directly or indirectly in relation to the subject-matter of the hearing with any person or with any party or representative of a party except upon notice to and opportunity for all parties to participate.

No  
communi-  
cation

(5) The Discipline Committee may seek legal advice from an adviser independent from the parties and, in such case, the nature of the advice shall be made known to the parties in order that they may make submissions as to the law.

Advice

(6) The oral evidence taken before the Discipline Committee shall be recorded and, if so required, copies or a transcript thereof shall be furnished only to the parties at the cost to the parties.

Recording of  
evidence

(7) Documents and things put in evidence at a hearing of the Discipline Committee shall, upon the request of the person who produced them, be released to the person by the Committee within a reasonable time after the matter in issue has been finally determined.

Release of  
documentary  
evidence

**18.**—(1) A party to proceedings before the Discipline Committee may appeal from its decision or order to the Tribunal.

Appeal to  
Tribunal

(2) Subsections 14 (6) to (11) apply with necessary modifications to an appeal to the Tribunal from a decision or order of the Discipline Committee.

Application

**19.**—(1) No person shall act or imply that the person is available to act as a funeral director unless the person is licensed to do so.

Licence  
required

(2) No person shall operate or imply that the person is available to operate a funeral establishment unless the person is licensed to do so.

Idem

(3) No person shall operate or imply that the person is available to operate a transfer service unless,

Idem

(a) the person is licensed to do so; or

(b) the person is licensed to operate a funeral establishment and the transfer service is operated as part of the normal operation of the funeral establishment.

(4) No person other than a funeral director who is licensed to do so shall perform or imply that the person is available to perform embalming.

Idem

Place of  
business

(5) No person shall operate a funeral establishment or transfer service except at a place that is named in the licence of the person.

Funeral  
services

(6) No funeral director shall offer funeral services except through a licensed funeral establishment.

Idem

(7) No funeral director shall offer funeral services to the public except through an operator of a funeral establishment who is licensed to do so.

Funeral  
establishment

(8) No operator of a funeral establishment shall employ a person as a funeral director unless the person is licensed as a funeral director.

Direction and  
management

(9) Every operator of a funeral establishment shall ensure that the funeral establishment is managed and directly supervised by a funeral director who is responsible for the conduct or misconduct of any person to whom the funeral director delegates responsibilities.

Idem

(10) No funeral director shall manage and directly supervise the operation of more than one funeral establishment except as prescribed.

Corporation

(11) Each corporation that is licensed to operate a funeral establishment shall ensure that at least one of the directors of the corporation is a funeral director.

Exceptions

(12) Subsections (1) and (4) do not apply,

- (a) to a student in a training program who is working under the supervision and in the presence of a funeral director; or
- (b) to a student who is enrolled in a recognized course of funeral services education and who is working under the supervision and in the presence of the instructor of the course.

Idem

(13) Subsection (4) does not apply to a person employed in a recognized school of medicine or anatomy while so employed.

Application

**20.**—(1) A person may apply to the Registrar for a licence to operate a funeral establishment or to operate a transfer service.



(2) A person who has successfully completed the educational requirements that are prescribed may apply to the Registrar for a licence as a funeral director. Idem

(3) An applicant is entitled to a licence or a renewal of a licence as a funeral director or to operate a funeral establishment or to operate a transfer service except if, Requirement

(a) the applicant cannot reasonably be expected to be competent or financially responsible in the conduct of the applicant's business;

(b) the past or present conduct of the persons referred to in subsection (4) affords reasonable grounds for belief that the applicant will not operate in accordance with the law and with integrity and honesty;

(c) the applicant or an employee or agent of the applicant makes a false statement or provides a false statement in an application for a licence;

(d) the applicant is carrying on activities that are, or will be if the applicant is licensed, in contravention of this Act or the regulations;

(e) the applicant will, if licensed, be carrying on activities under this Act and the regulations that are in contravention of another Act or a municipal by-law; or

(f) in the case of a corporation that operates a funeral establishment, no director of the corporation is a funeral director.

(4) Clause (3) (b) applies to the following persons: Idem

1. The applicant.

2. An officer or director of the applicant.

3. A person holding more than 10 per cent of the equity shares of the applicant or an officer or director of such person.

4. Any person having a beneficial interest in the operation of the business of the applicant or licensee.

(5) The Registrar shall issue a licence as a funeral director, to operate a funeral establishment or to operate a transfer service, as the case requires, to every applicant therefor who Issue



pays the fee that is prescribed, complies with this Act and the regulations and is not disentitled under subsection (3).

Conditions

(6) A licence is subject to such conditions as may be consented to by the applicant, imposed by the Tribunal or prescribed.

Refusal to issue

**21.**—(1) Subject to section 22, the Registrar may refuse to issue a licence to an applicant if the applicant is not entitled to a licence under subsection 20 (3).

Refusal to renew

(2) Subject to section 22, the Registrar may refuse to renew or may suspend or revoke a licence,

- (a) for any reason that would disentitle the licensee to a licence under subsection 20 (3) if the licensee were an applicant;
- (b) if the licensee is in breach of a condition of the licence; or
- (c) if the licensee is a corporation and the shareholders of the corporation have changed in the manner and to the extent prescribed.

Fees

(3) Subject to section 22, the Registrar shall refuse to issue or renew a licence if the applicant has not paid the fee that is prescribed.

Proposal

**22.**—(1) If the Registrar proposes to refuse to issue or renew a licence, proposes to issue a licence subject to conditions or proposes to suspend or revoke a licence, the Registrar shall serve notice of the proposal, together with written reasons therefor, on the applicant or the licensee.

Notice

(2) A notice under subsection (1) shall inform the applicant or licensee that the applicant or licensee is entitled to a hearing by the Tribunal if the applicant or licensee mails or delivers to the Registrar and to the Tribunal, within fifteen days after the notice is served on the applicant or licensee, notice in writing requiring a hearing and the applicant or licensee may so require such a hearing.

No hearing

(3) If an applicant or licensee does not require a hearing by the Tribunal, the Registrar may carry out the proposal stated in the notice to the applicant or licensee.

Hearing

(4) If an applicant or licensee requires a hearing, the Tribunal shall appoint a time for and hold a hearing.

(5) After holding a hearing, the Tribunal may by order direct the Registrar to carry out the proposal or refrain from carrying out the proposal and to take such action as the Tribunal considers the Registrar ought to take in accordance with this Act and the regulations and for such purposes the Tribunal may substitute its opinion for that of the Registrar.

Order

(6) The Tribunal may attach such conditions to its order or to the licence as it considers proper to give effect to the purposes of this Act.

Conditions

(7) The Registrar, the applicant or licensee who has required the hearing and such other persons as the Tribunal may specify are parties to proceedings before the Tribunal under this section.

Parties

(8) The Registrar may cancel a licence upon the request in writing of the licensee and the surrender of the licence by the licensee.

Cancellation

(9) The Registrar may refer any matter that deals with licensing to the Licensing Committee for their recommendations.

Referral

**23.—**(1) A person who is refused a licence or who is refused a renewal of a licence may apply in writing to the Registrar for the issuance of a licence only if at least one year has passed since the refusal.

Application

(2) A person whose licence is revoked under this Act or whose registration was cancelled under a predecessor of this Act may apply in writing to the Registrar for the issuance of a licence only if at least one year has passed since the revocation or cancellation.

Idem

(3) A person whose licence is suspended under this Act or whose registration was suspended under a predecessor of this Act, for more than one year, may apply in writing to the Registrar for the removal of the suspension only if at least one year has passed since the suspension.

Idem

**24.—**(1) If the Registrar proposes to suspend or revoke a licence, the Registrar may, if the Registrar considers it to be necessary in the public interest, by order, temporarily suspend the licence and the order shall take effect immediately.

Temporary order

(2) If a hearing is required with respect to a proposal to suspend or revoke a licence, the order expires fifteen days after the date of the notice requiring the hearing unless the hearing is commenced, in which case the Tribunal holding the

Hearing

hearing may extend the time of expiration until the hearing is concluded.

No licence

(3) If the Registrar by order temporarily suspends a licence under this section or section 22, the licensee shall during the term of the suspension be considered not to be licensed under this Act.

Stay

R.S.O. 1980,  
c. 274

**25.** Despite the fact that a licensee appeals from an order of the Tribunal under section 11 of the *Ministry of Consumer and Commercial Relations Act*, the order takes effect immediately but the Tribunal may grant a stay until the disposition of the appeal.

Continuation

**26.** If in the time prescribed therefor or, if no time is prescribed before the expiry of the licensee's licence, a licensee applies in the manner prescribed for renewal of the licence and pays the fee prescribed, the licence shall be deemed to continue,

(a) until the renewal is granted; or

(b) if the licensee is served with a notice that the Registrar proposes to refuse to grant the renewal, until the time for giving notice requiring a hearing has expired and, if a hearing is required, until the Tribunal has made its order.

Advertising

**27.—**(1) If the Director or the Registrar believes, on reasonable and probable grounds, that a person licensed under this Act has made a false or misleading public representation or that a representation is in contravention of this Act or the regulations, the Director or the Registrar shall order the person to stop making the representation and in the order shall set out the reasons for the order.

Compliance  
with order

(2) A person who receives an order under subsection (1) shall immediately comply with the order and shall refrain from making the representation, in any form, in the future.

Appeal

(3) Any person who receives an order under subsection (1) may appeal the order to the Tribunal.

Stay of order

(4) The Tribunal may issue a stay of any order made by the Director or Registrar under subsection (1).

Repayment

**28.** If a person is entitled to the repayment of money paid for or on account of funeral services, the operator of the funeral establishment, the funeral director who managed or manages the operation of the funeral establishment and any



funeral director in the employ of the operator of the funeral establishment who received the money or any part thereof are liable jointly and severally with any other person who is liable for the repayment of the money.

**29.** A licence is not required with respect to rites and ceremonies traditionally provided at a place of worship. Place of worship

**30.**—(1) No person other than a person who is licensed to operate a funeral establishment or a transfer service and who is a participant in good standing in the Compensation Fund shall enter into or offer to enter into a prepaid contract with a purchaser. Prepaid contracts

(2) Subsection (1) does not apply to a person selling funeral supplies under the authority of the *Cemeteries Act, 1989*. Idem  
1989, c. 50

**31.**—(1) No licensee shall enter into a prepaid contract that contains a provision for the payment of interment rights in a cemetery lot. Contracts

(2) All goods or services for which a licensee accepts payment in respect of one beneficiary shall be included in one prepaid contract. One contract

(3) No licensee shall enter into a prepaid contract that guarantees the price of any goods or services in the contract unless the price of all goods and services included in the contract are guaranteed. Guarantee

**32.**—(1) Prior to the death of the beneficiary, the purchaser or a person designated in the contract by the purchaser may cancel the contract at any time. Cancellation

(2) Prior to the death of the beneficiary but after the death of the purchaser, the beneficiary or the beneficiary's personal representative may cancel the contract at any time. Idem

(3) After the death of the beneficiary, only the beneficiary's personal representative may at any time cancel the contract prior to the delivery of all the services contracted for. Idem

(4) Subsections (1), (2) and (3) apply to contracts entered into before this Act comes into force. Idem

**33.** No person shall charge or accept any payment with respect to a prearrangement. Prearrangement fees

**34.**—(1) Every person who receives a payment under a prepaid contract shall hold the amount of the payment Trust



together with all income accrued thereon in trust until it is disbursed in accordance with this Act and the regulations.

## Cancellation

(2) If a prepaid contract is cancelled, the person holding the funds in trust under the contract shall forthwith pay the funds and all income accrued thereon to,

- (a) if the prepaid contract is cancelled prior to the death of the beneficiary, the purchaser or the person set out in the contract;
- (b) if the prepaid contract is cancelled prior to the death of the beneficiary but after the death of the purchaser, the beneficiary; or
- (c) if the prepaid contract is cancelled after the death of the beneficiary, the estate of the beneficiary.

## Deductions

(3) If a prepaid contract is cancelled after thirty days of the entering into of the contract, the person paying under subsection (2) may deduct from the amount paid such fees as are prescribed.

## Application

(4) Subsection (1) does not apply to a payment made to an insurer under an insurance contract or plan.

## Repayment

**35.**—(1) If a prepaid contract is fulfilled, the balance, if any, of the prepayment funds that are in excess of the cost of delivering the services and supplies contracted for shall be paid to the beneficiary's estate forthwith despite any contrary provision in the contract.

## Costs

(2) The cost of delivering the services and supplies required under a prepaid contract shall not exceed the amount that would otherwise be charged for the same services and supplies if there had not been prepayment.

## Contract requirements

**36.**—(1) A prepaid contract is not enforceable by an operator of a funeral establishment or transfer service unless,

- (a) it is written, signed by both parties and complies with the regulations;
- (b) it sets out the purchaser's cancellation rights under this Act; and
- (c) the operator delivers a signed copy of the contract to the purchaser at the time the contract is made.

(2) An operator of a funeral establishment or transfer service who receives money under a contract that is not enforceable because of the application of this section shall refund to the purchaser, immediately upon written demand, with interest at the prescribed rate, all money received. Refund with interest

(3) Subsection (2) does not apply after the supplies and services have been provided under the contract. Exception

**37.** Every licensee shall make such information as is prescribed available to the public in the manner and form prescribed. Public information

**38.**—(1) No person shall contact, in any way, a person in a hospital, nursing home or such other institution as is prescribed for the purpose of suggesting that a contract be made. Soliciting prohibited

(2) No person shall contact, by telephone or in person, a person for the purpose of suggesting that a contract be made. Idem

(3) This section does not prohibit, Exception

(a) a contact made at the request of the person being contacted; or

(b) a contact with a licensee.

**39.**—(1) No person shall operate a funeral establishment or transfer service in conjunction with the owner of a cemetery or crematorium in a manner that is prescribed. Prohibition

(2) No person shall operate a funeral establishment or transfer service from locations that are prescribed. Idem

**40.**—(1) If the Director or the Board is of the opinion that a person is not complying with this Act or the regulations, despite the imposition of a penalty in respect of the non-compliance and despite the fact that another remedy may be available, the Director or the Board may apply to a judge of the High Court for an order directing the person to comply. Restraining order

(2) Upon an application under subsection (1), the judge may make the order applied for or such other order as the judge thinks appropriate. Idem

(3) An appeal lies to the Divisional Court from an order made under subsection (2). Idem

**41.**—(1) If the Director has reasonable and probable grounds to believe that a licensee is doing or is about to do Freezing assets

something that will jeopardize the public interest, the Director may direct any person holding, having on deposit or controlling assets of the licensee or trust funds under the control of the licensee to hold the assets or trust funds until further instructions are received from the Director to release a particular asset or trust fund from the direction.

Scope of  
direction

(2) In the case of a bank or a corporation, a direction under subsection (1) applies only to the offices, branches or agencies thereof named in the direction.

Application  
for directions

(3) Any person named in a direction issued under subsection (1), if in doubt as to the application of the direction to particular assets or trust funds, may apply to the Director for an order of clarification.

Revocation  
or  
amendment  
of direction

(4) On an application of a licensee or any other person having an interest therein, the Director may make an order on such conditions as are set out in the order revoking the direction or consenting to the release of a particular asset or trust fund from the direction.

Appeal

(5) A person affected by a direction or order of the Director made under this section or a refusal to make an order may appeal to the Tribunal.

Application

(6) Subsections 14 (6) to (11) apply with necessary modifications to an appeal to the Tribunal from a direction or order of the Director.

Inspectors

**42.**—(1) The Registrar or a Director may appoint inspectors for the purpose of determining whether there is compliance with this Act and the regulations.

Certificate of  
appointment

(2) An inspector exercising a power under this Act shall, on request, produce his or her certificate of appointment.

Inspections

**43.**—(1) For the purpose of ensuring compliance with this Act and the regulations, an inspector may,

- (a) enter any place at any reasonable time;
- (b) request the production for inspection of documents or things that may be relevant to the inspection;
- (c) inspect and, upon giving a receipt therefor, remove, for the purpose of making copies or extracts, documents or things relevant to the inspection;



- (d) inquire into negotiations, transactions, loans or borrowings of a licensee and into assets owned, held in trust, acquired or disposed of by a licensee that are relevant to an inspection;
- (e) conduct such tests as are reasonably necessary; and
- (f) remove materials or substances for examination or test purposes subject to the licensee or other occupant of the premises being notified thereof.

(2) Subsection (1) does not apply to confer a power of entry to a room actually used as a dwelling without the consent of the occupier. Entry to dwellings

(3) A justice of the peace may issue a warrant authorizing the person named in the warrant, Warrant

- (a) to do anything set out in clause (1) (a), (c), (e) or (f);
- (b) to search for and seize any document or thing relevant to the inspection; or
- (c) to enter and search a room actually used as a dwelling.

(4) A warrant may be issued under subsection (3) if the justice of the peace is satisfied on information under oath that, in the case of a warrant to be issued under, Requirements for warrant to issue

- (a) clause (3) (a), an inspector has been prevented from doing anything permitted under clause (1) (a), (c), (e) or (f) or there is reasonable ground to believe that an inspector may be prevented from doing any of those things;
- (b) clause (3) (b), to search for and seize a document or thing that there is reasonable ground to believe will afford evidence relevant to a contravention of this Act or the regulations; or
- (c) clause (3) (c), it is necessary that a room actually used as a dwelling be entered for the purposes of carrying out an inspection or there is, in such a room, a document or thing that there is reasonable ground to believe is relevant to an inspection under this Act.



- Execution of warrant (5) A warrant issued under this section shall specify the hours and days during which it may be executed.
- Expiry (6) Unless renewed, a warrant under this section expires not later than thirty days after the date on which it is made.
- Notice not required (7) A warrant under this section may be issued or renewed before or after expiry upon application without notice.
- Experts (8) An inspector is entitled to call upon such experts as are necessary to assist the inspector in carrying out an inspection under this Act.
- Assistance (9) A person doing anything under the authority of a warrant issued under this section is authorized to call on such police officers to assist and to use such force as is necessary in the execution of the warrant.
- Copies (10) An inspector taking material in order to copy it shall make the copy with reasonable dispatch and shall promptly return the material taken.
- Admissibility of copies (11) Copies of, or extracts from, documents and things removed under this section and certified as being true copies of, or extracts from, the originals by the person who made them are admissible in evidence to the same extent as, and have the same evidentiary value as, the documents or things of which they are copies or extracts.
- Obstruction of inspector **44.**—(1) No person shall obstruct an inspector in carrying out an inspection under this Act or withhold, destroy, conceal or refuse to provide any relevant information or thing required for the purpose of the inspection.
- Facilitating inspection (2) It is a condition of each licence issued under this Act that the licensee facilitate an inspection relevant to the licence.
- Appointment of receiver and manager **45.**—(1) The Director or Registrar may apply to a judge or a local judge of the Supreme Court for the appointment of a receiver and manager of an involved funeral establishment or transfer service if,
- (a) the Director or Registrar has reasonable and probable grounds to believe that a person licensed under this Act has failed or is about to fail to provide contracted and paid for funeral services to a client;
  - (b) the Director or Registrar is advised that a proposal to suspend or revoke a licence under section 21 or

to temporarily suspend a licence under section 24 has been made; or

- (c) the Director has directed or is about to make a direction under section 41.

(2) A judge, upon an application being made under subsection (1), without notice or, if the judge considers that notice should be given, upon such notice as the judge stipulates, may, if it is considered in the public interest and subject to the *Bankruptcy Act* (Canada), appoint a receiver and manager to take possession and control of the business of the person in respect of whom an action referred to in subsection (1) applies for a period not exceeding sixty days.

Idem

R.S.C. 1985,  
c. B-3

(3) An appointment made under subsection (2) may be extended, upon an application without notice, for an additional period not exceeding sixty days.

Extension

(4) A receiver and manager appointed under subsection (2) shall take possession and control of the assets of the business and shall thereafter conduct the business and take such steps as in the opinion of the receiver and manager should be taken toward its rehabilitation.

Receiver and  
manager  
taking  
control

(5) For the purposes of subsection (4), the receiver and manager have all the powers of the board of directors of the corporation, if the business is a corporation, or of a sole proprietor or all partners if the business is not a corporation and, without limiting the generality of the foregoing, the receiver and manager may,

Idem

(a) exclude the directors, officers, servants and agents of the business from the premises and property of the business; and

(b) carry on, manage and conduct the operations of the business and in the name of the business preserve, maintain, realize, dispose of and add to the property of the business and receive the incomes and revenues of the business.

(6) An order made under this section may be enforced in the same manner as any order or judgment of the Supreme Court and may be varied or discharged upon an application made by notice.

Enforcement  
of order

(7) Upon an application being made under this section, the rules of practice of the Supreme Court apply.

Rules of  
practice

Regulations

**46.**—(1) The Lieutenant Governor in Council may make regulations,

1. prescribing the manner in which trust accounts shall be kept and accounted for;
2. providing for the inspection of trust accounts;
3. prescribing the duties of depositories with respect to trust funds held under this Act;
4. requiring receipts to be given by licensees with respect to contracts;
5. providing for the establishment, maintenance and administration of the Compensation Fund;
6. prescribing provisions that relate to the investing and paying out of moneys from the Compensation Fund;
7. providing for the payment of levies into the Compensation Fund and prescribing the amounts of levies;
8. providing for appeals from a refusal to pay out of the Compensation Fund;
9. governing the powers and duties of the trustee administering the Compensation Fund;
10. requiring the purchase of bonds for the purpose of indemnifying the Compensation Fund;
11. prescribing the terms and amounts of bonds;
12. providing for payment out of the Compensation Fund of claims and procedures to be followed with respect thereto;
13. requiring participation in the Compensation Fund by licensees;
14. on any matter relating generally to the purchase, renewal or terms of a bond or the disposition of payments received thereunder;
15. governing the form and content of contracts and receipts, including the cancellation of contracts;



16. prescribing the terms that a contract shall be deemed to contain;
17. prescribing conditions under which contracts may be assigned and prohibiting assignments that are not in accordance with the prescribed conditions;
18. regulating, limiting or prohibiting the soliciting of contracts;
19. governing the term during which each class or type of licence is valid;
20. exempting any person or thing or class of person or thing from the application of any provision of this Act or the regulations and prescribing conditions for any exemption;
21. authorizing persons, other than funeral directors, to perform specified acts in the providing of funeral services under the supervision or direction of a funeral director;
22. governing the books, accounts, records and information that shall be kept by licensees and that shall be filed with the Registrar;
23. prescribing fees and requiring the payment of fees;
24. prescribing forms and providing for their use;
25. prescribing educational requirements and testing requirements on an initial and ongoing basis for licensees and employees of licensees;
26. governing applications for licences and renewals of licences;
27. prescribing classes of licences;
28. governing the requirements and qualifications for the issuing of licences and prescribing the conditions for obtaining and maintaining a licence;
29. governing standards of practice and operation for licensees;
30. respecting the methods and materials that may be used in providing funeral services;



31. prohibiting or governing the advertising of funeral services or funeral supplies and prohibiting or governing the display of funeral supplies to the public;
32. governing the construction, location, equipment, maintenance, repairs, additions and alterations to funeral establishments and governing the information, plans and materials to be furnished to the Registrar with respect thereto;
33. governing the equipment and practices, including hygienic practices, with respect to the embalming, transportation, preparation and disposal of dead human bodies;
34. regulating, controlling and prohibiting the use of terms, titles or designations by licensees;
35. prescribing practices or actions that are evidence of incompetence or lack of honesty and integrity;
36. governing the availability and display of funeral services and funeral supplies;
37. prescribing specifications and minimum requirements for funeral services and funeral supplies;
38. prescribing, for any notice required to be given under this Act, the type of notice and the manner in which it is to be given;
39. governing the payment of money into and out of trust funds, including the time within which and the circumstances under which payments are to be made;
40. providing for the maintenance and inspection of registers of persons who are licensed;
41. prescribing anything that is referred to in this Act as being prescribed.

Limited  
application

(2) A regulation made under this Act may be of limited application.

Retroactive

(3) A regulation made under this section may be retroactive in effect and may apply to contracts entered into before this Act comes into force.

Offence

**47.—**(1) Every person who,

- (a) furnishes false, misleading or incomplete information in an application under this Act or in a statement or return required to be furnished under this Act or the regulations;
- (b) fails to comply with a direction or order made under this Act; or
- (c) contravenes any provision of this Act or the regulations,

is guilty of an offence.

(2) Every director or officer of a corporation who concurs in an offence under this Act is guilty of an offence. Idem

(3) An individual who is convicted of an offence under this Act is liable to a fine of not more than \$20,000 and on a subsequent conviction to a fine of not more than \$20,000 and to imprisonment for a term of not more than one year. Idem

(4) A corporation that is convicted of an offence under this Act is liable to a fine of not more than \$40,000. Idem

(5) No proceeding under this section shall be commenced more than two years after the facts upon which the proceedings are based first came to the knowledge of the Director. Limitation

(6) A statement as to the time when the facts upon which proceedings are based first came to the knowledge of the Director purporting to be certified by the Director is, without proof of the office or signature of the Director, admissible in evidence in any proceeding, in the absence of evidence to the contrary, as evidence of the facts stated therein. Certificate as evidence

(7) If a person is convicted of an offence under this Act, the court making the conviction may, in addition to any other penalty, order the person convicted to make compensation or restitution in relation thereto. Restitution

**48.—**(1) Every person employed in the administration of this Act, including any person making an inspection under this Act and any member of the Board or a committee of the Board, shall preserve secrecy with respect to all matters that come to the person's knowledge in the course of the person's duties, employment, inquiry or inspection and shall not communicate any such information to any other person except, Matters confidential

- (a) as may be required in connection with the administration of this Act and the regulations or any proceedings under this Act or the regulations;
- (b) to the person's counsel;
- (c) with the consent of the person to whom the information relates; or
- (d) to an employee of the Ministry of Consumer and Commercial Relations or to an employee of another ministry who requires the information in the performance of his or her duties and if disclosure is necessary for the administration of this Act or any other Act and the regulations thereunder administered by the Minister.

Idem

(2) The Ministry of Consumer and Commercial Relations or another ministry may disclose information in its custody or control to an employee of the Board if,

- (a) the personal information is reasonably required to verify the truth of the contents of an application for, or an application for renewal of, a licence or to verify the truth of any other information supplied in support of any such application; or
- (b) the Ministry or agency of the Ministry has reasonable grounds to believe that the personal information is relevant to a person's qualification to hold a licence.

Testimony in civil suit

(3) No person to whom subsection (1) applies shall be required to give testimony in any civil suit or proceeding with regard to information obtained by the person in the course of the person's duties, employment, inquiry, investigation or inspection except in a proceeding under this Act or the regulations.

Certificate as evidence

**49. A statement as to,**

- (a) the licensing or non-licensing of any person;
- (b) the filing or non-filing of any document or material required or permitted to be filed with the Registrar; or
- (c) any other matter pertaining to licensing, non-licensing, filing or non-filing,



containing information from the records kept by the Registrar under this Act purporting to be certified by the Registrar under the seal of the Board is, without proof of the office or signature of the Registrar, admissible in evidence in any proceeding, in the absence of evidence to the contrary, as evidence of the facts stated therein.

**50.**—(1) A notice, order or other document under this Act or the regulations is sufficiently given, served or delivered if delivered personally or sent by first class mail addressed to the person to whom it is to be given, served or delivered at that person's last known address. Service

(2) A notice, order or other document sent by first class mail in accordance with subsection (1) shall be deemed to be given, served or delivered on the fifth day after the day of mailing, unless the person to whom it is sent establishes that the notice, order or other document was not received until a later date because of absence, accident, illness or other cause beyond that person's control. Idem

**51.**—(1) A funeral director who is registered with the Board of Funeral Services under the *Funeral Services Act* on the date this Act comes into force is deemed to be licensed as a funeral director until the expiration of the licence, unless the licence is sooner surrendered, suspended or revoked. Transition  
R.S.O. 1980,  
c. 180

(2) A person who is licensed with the Board of Funeral Services under the *Funeral Services Act* to establish and maintain a funeral services establishment on the date this Act comes into force is deemed to be licensed to operate a funeral establishment until the expiration of the licence, unless the licence is sooner surrendered, suspended or revoked. Idem

**52.** The board known as the Funeral Services Review Board is dissolved and any matter before the Board on the date this Act comes into force shall be dealt with by the Tribunal. Funeral  
Services  
Review  
Board not  
continued

**53.** The following are repealed: Repeals

1. The *Funeral Services Act*, being chapter 180 of the Revised Statutes of Ontario, 1980.
2. Section 3 of the *Mobility Rights Statute Law Amendment Act, 1985*, being chapter 5.
3. The *Prearranged Funeral Services Act*, being chapter 387 of the Revised Statutes of Ontario, 1980.



Commence-  
ment

**54.** This Act comes into force on a day to be named by proclamation of the Lieutenant Governor.

Short title

**55.** The short title of this Act is the *Funeral Directors and Establishments Act, 1989*.





# Bill 31

## **An Act to revise the Cemeteries Act**

The Hon. W. Wrye

*Minister of Consumer and Commercial Relations*

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*1st Reading*      June 12th, 1989

*2nd Reading*

*3rd Reading*

*Royal Assent*

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## EXPLANATORY NOTES

The Bill revises the existing *Cemeteries Act*.

The purpose of the Bill is to regulate the establishment and management of cemeteries and crematoria and to provide a larger measure of consumer protection. The main features of the Bill are:

1. Appointment of a Registrar to administer the Act.
2. Municipal control of the establishment, alteration and enlargement of cemeteries and crematoria, with appeal of municipal decisions to the Ontario Municipal Board.
3. Providing for the licensing of owners of cemeteries and crematoria and of sales representatives.
4. Provisions govern contracts for the sale of interment rights, supplies and services by owners of cemeteries and crematoria, providing information disclosure and rights of cancellation for pre-need purchases.
5. Telephone and door-to-door solicitation for the sale of interment rights, cemetery supplies and services is prohibited.
6. Provisions are made to protect unmarked burial sites, resolve their status and settle disputes regarding their disposition.
7. Provisions regarding Care and Maintenance Trust Funds (formerly Perpetual Care) are expanded to apply to monuments.
8. Provisions governing cemetery abandonment are streamlined, giving municipalities full title to abandoned sites and associated trust funds.

**Bill 31****1989****An Act to revise the Cemeteries Act**

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

**1. In this Act,**

## Definitions

“burial site” means land containing human remains that has not been approved or consented to as a cemetery;

“by-laws”, when used in relation to a cemetery, means the rules under which a cemetery or crematorium is operated;

“cemetery” means land set aside to be used for the interment of human remains and includes a mausoleum, columbarium or other structure intended for the interment of human remains;

“cemetery services” means,

(a) in respect of a lot,

- (i) opening and closing of a grave,
- (ii) interring or disinterring human remains,
- (iii) providing temporary storage in a receiving vault,
- (iv) construction of a foundation for a marker,
- (v) setting of corner posts,
- (vi) providing,
  - (A) a tent or canopy,
  - (B) carrying and lowering devices, and
  - (C) ground cover,

for an interment service, and

- (vii) preparing flower beds and planting flowers and shrubs,
- (b) in respect of a crypt or compartment in a mausoleum,
  - (i) opening, closing and sealing of the crypt or compartment,
  - (ii) providing temporary storage in a vault or crypt,
  - (iii) providing a tent or canopy for an interment service, and
  - (iv) providing elevating devices,
- (c) in respect of a niche or compartment in a columbarium,
  - (i) opening, closing and sealing of the niche or compartment, and
  - (ii) providing a tent or canopy for an interment service,
- (d) in respect of a crematorium, all services provided by the owner of the crematorium at the crematorium, and
- (e) in respect of a cemetery, such other services as are provided by the owner of the cemetery at the cemetery;

“cemetery supplies” includes interment vaults, markers, flowers, liners, urns, shrubs and artificial wreaths and other articles intended to be placed in a cemetery;

“columbarium” means a structure designed for the purpose of interring cremated human remains in sealed compartments;

“commercial cemetery” means a cemetery operated for the purpose of making a profit for the owner;

“crematorium” means a building fitted with appliances for the purpose of cremating human remains and includes everything incidental and ancillary thereto;

“Director” means a Director appointed under the *Ministry of Consumer and Commercial Relations Act*; R.S.O. 1980, c. 274

“equity share” means a share of a class of shares that carries a voting right either under all circumstances or under some circumstances that have occurred and are continuing;

“human remains” means a dead human body and includes a cremated human body;

“income” means the interest or money earned, including the compounding thereof, by the investment of funds;

“inter” means the burial of human remains and includes the placing of human remains in a lot;

“interment rights” includes the right to require or direct the interment of human remains in a lot;

“interment rights holder” means a person with interment rights with respect to a lot and includes a purchaser of interment rights under the *Cemeteries Act*, being chapter 59 of the Revised Statutes of Ontario, 1980, or a predecessor of that Act;

“land registry office” means the land registry office or the land titles office in the area in which a cemetery is located;

“lot” means an area of land in a cemetery containing, or set aside to contain, human remains and includes a tomb, crypt or compartment in a mausoleum and a niche or compartment in a columbarium;

“marker” means any monument, tombstone, plaque, headstone, cornerstone, or other structure or ornament affixed to or intended to be affixed to a burial lot, mausoleum crypt, columbarium niche or other structure or place intended for the deposit of human remains;

“mausoleum” means a building or structure, other than a columbarium, used as a place for the interment of the human remains in sealed crypts or compartments;

“Minister” means the Minister of Consumer and Commercial Relations;

“municipality” means the corporation or other entity having municipal jurisdiction in the area in which a cemetery is located and includes a county government, police village,



regional municipality, city, town, village, township or improvement district or the council thereof;

“owner” means an owner of a cemetery or a crematorium;

“person” includes a board of trustees, local council of a municipality or other organization or group of persons organized for the purpose of operating or managing a cemetery;

“plot” means two or more lots in which the rights to interment have been sold as a unit;

“pre-need supplies or services” means cemetery supplies or services that are not required to be provided until the death of a person alive at the time the arrangements are made;

“prescribed” means prescribed by the regulations made under this Act;

“Registrar” means the Registrar appointed under this Act;

“sales representative” means,

- (a) a person who sells or offers for sale interment rights or cemetery supplies or services on behalf of a commercial cemetery, or
- (b) a person whose primary employment is selling interment rights or cemetery supplies or services;

“Tribunal” means The Commercial Registration Appeal Tribunal;

“trust fund” means a trust fund established for the purpose of this Act.

#### CONSENT TO ESTABLISH CEMETERY OR CREMATORIUM

Consent for  
cemetery,  
etc.

**2.** No person shall establish, alter or increase the capacity of a cemetery or crematorium without the consent of the Registrar.

Application  
for consent

**3.—(1)** An applicant for consent shall apply to the Registrar and,

- (a) pay the prescribed fee;

- (b) submit the prescribed documents showing the layout of the cemetery and the location of existing or proposed plots, lots, structures and fixtures; and
- (c) if the applicant is the owner of a commercial cemetery or a cemetery of a class prescribed for the purpose of this clause, pay a deposit in a prescribed amount into a Care and Maintenance Fund.

(2) If the cemetery or crematorium is proposed to be established or already exists in an area with municipal organization, the applicant, before applying for the consent of the Registrar, must obtain the approval to the proposal of the appropriate municipality. Approval required

(3) If the cemetery or crematorium is to be established or enlarged to encroach on land, in an area without municipal organization, that is Crown land at the time of the application for consent, the applicant, before applying for the consent of the Registrar, must obtain the approval to the proposal of the Minister of Natural Resources. Idem

4. A municipality that receives a request for an approval required by subsection 3 (2) may hold public hearings to determine if the approval is in the public interest. Public hearings

5.—(1) A municipality, upon receiving a request for approval, shall give or refuse to give the approval within a reasonable time after receiving the request. Decision

(2) In considering a request for an approval, the principle factor shall be the public interest. Public interest

(3) A municipality shall, upon arriving at a decision on an application, Notice of decision

(a) send a copy of the decision together with the reasons for it to the Registrar and to the applicant; and

(b) publish notice of the decision in a local newspaper.

(4) The applicant, Registrar or any person with an interest therein may, within fifteen days after publication of the notice of the decision, refer the decision of a municipality to the Ontario Municipal Board for a hearing. Appeal

(5) Despite subsection (4), if an applicant or the Registrar does not receive a copy of a decision until after the decision is published, the fifteen days referred to in subsection (4) apply Idem

after the applicant or Registrar, as the case may be, receives the copy.

Repre-  
sentation

(6) The Registrar is entitled to make representations to the Ontario Municipal Board in any appeal under subsection (4).

Board  
decision

**6.—**(1) The Ontario Municipal Board may reverse the decision appealed from and substitute its own decision.

Idem

(2) A decision of the Board that is substituted under subsection (1) shall be deemed to be the decision of the municipality.

Certificate of  
consent

**7.—**(1) The Registrar shall give a certificate of consent to the establishment, alteration or increase in the capacity of a cemetery or crematorium, as the case may be, if,

- (a) the applicant has the approval of the municipality or the Minister of Natural Resources;
- (b) the applicant is licensed to own that cemetery and is and will be on the granting of the licence in compliance with the requirements of this Act and the regulations and the laws intended for the protection of the environment and of health; and
- (c) where neither approval referred to in clause (a) is required, the Registrar is satisfied that the consent is in the public interest.

Notice of  
refusal to  
issue

(2) The Registrar, on refusing to give a certificate of consent, shall advise the applicant, in writing, of,

- (a) the reason for the refusal; and
- (b) the applicant's right to appeal.

Appeal

(3) An applicant who receives a notice under subsection (2) may appeal to the Tribunal within fifteen days after receiving the notice.

Order by  
Tribunal

(4) If the Tribunal finds that the applicant is in compliance with clauses (1) (a) and (b) or that giving the consent is in the public interest, as the case may be, the Tribunal shall order the Registrar to issue the certificate of consent applied for or a consent in a modified version.

Idem

(5) Upon receiving an order under subsection (4), the Registrar shall issue the certificate as ordered.

(6) A certificate of consent shall contain a sufficient description of the cemetery or crematorium so that the certificate may be registered in the appropriate land registry office. Registration

(7) Upon registration of a certificate of consent, the land described therein becomes a cemetery. Effect of registration

#### CLOSING CEMETERY

**8.**—(1) In this section and in sections 9, 10, 11, 12 and 13, a reference to a cemetery includes any part of a cemetery. Closing cemetery

(2) The Registrar may order a cemetery closed if the closing is in the public interest. Idem

(3) An order shall not be made under subsection (2) until, Notice

- (a) notice of the intention to make the order is given in the manner and to the persons prescribed; and
- (b) interested persons are given the opportunity to make submissions to the Registrar within such time as is prescribed.

(4) Notice is not required if, Idem

- (a) the request is from the owner;
- (b) no interments have been made in the cemetery to be closed; and
- (c) the consent of all affected interment rights holders has been obtained.

**9.**—(1) In an order to close a cemetery, the Registrar may, Order

- (a) declare a cemetery or a portion thereof closed;
- (b) require the owner to disinter all human remains therein and specify the manner of disinterment and the manner and place of reintering or dealing with the remains;
- (c) require the owner to remove any markers and relocate them to a specified place; and
- (d) require the owner to provide or acquire equivalent interment rights for all holders of interment rights with respect to unused lots in the cemetery.



- Substitution (2) In an order to close a cemetery, the Registrar may designate another person to do anything that the owner may be required to do.
- Notice (3) The Registrar shall give every person who made a submission notice of the order and at the same time advise the person of the right of appeal.
- Coming into force (4) Subject to subsection (5), an order to close a cemetery comes into force thirty days after it is made unless there is an appeal filed before the order comes into force or the order sets out a later date.
- Idem (5) If submissions were made in respect of the order, the order comes into force thirty days after notice has been given to each person who made a submission unless there is an appeal filed before the order comes into force or the order sets out a later date.
- Idem (6) An order that is appealed comes into force upon being upheld by the Tribunal.
- Appeal **10.** A person with an interest therein may appeal, to the Tribunal,
- (a) an order to close a cemetery any time before the order comes into force; or
  - (b) a refusal to order a cemetery closed.
- Certificate **11.**—(1) The Registrar, upon being satisfied that the requirements in an order to close a cemetery have been complied with, shall issue a certificate, with a legal description of the land involved, that the cemetery is closed.
- Idem (2) Despite subsection (1), an applicant therefor is entitled to a certificate that a cemetery is closed if the cemetery had been closed by the Lieutenant Governor in Council but a certificate issued under subsection 59 (7) of the *Cemeteries Act*, being chapter 59 of the Revised Statutes of Ontario, 1980, or a predecessor of that subsection has not been registered.
- Registration (3) A certificate issued under this section may be registered in the appropriate land registry office.
- Effect of registration (4) Upon registration of a certificate of closing, the land described therein ceases to be a cemetery.
- Maintenance fund **12.**—(1) Where any money has been paid into a care and maintenance fund with respect to a cemetery that is to be

closed, the Registrar shall direct that money to be transferred to the trustee of the fund maintained by the owner of the cemetery into which the human remains are to be reinterred or where the interment rights are to be exercised.

(2) The amount transferred under subsection (1) is a credit against the amount required to be paid into the fund by the owner of the cemetery into which the human remains are to be reinterred or where the interment rights are to be exercised. Idem

**13.** Where any money has been paid into a pre-need assurance fund with respect to interment rights in a cemetery that is to be closed, the Registrar shall direct that money to be paid to the trustee of the fund maintained by the owner of the cemetery where alternative interment rights have been made available for the holders of interment rights in the cemetery to be closed. Pre-need  
assurance  
fund

#### LICENCES

**14.** No person shall own a cemetery or crematorium unless licensed under this Act to own that cemetery or crematorium. Licence  
required

**15.—(1)** A person may apply to the Registrar for a licence to own a cemetery or crematorium. Licence to  
own

(2) An applicant is entitled to a licence except if, Requirements

(a) the applicant cannot reasonably be expected to be financially responsible in the operation of a cemetery or crematorium;

(b) the past or present conduct of the applicant, the officers or directors of the applicant or persons holding more than 10 per cent of the equity shares of the applicant affords reasonable grounds for belief that the cemetery or crematorium will not be managed in accordance with the law and with integrity and honesty;

(c) the applicant or managing employees of the applicant do not have the experience and competence required to manage the cemetery or crematorium in accordance with the law;

(d) the applicant is carrying on activities that are, or will be if the applicant is licensed, in contravention of this Act or the regulations;

- (e) the applicant will, if licensed, be carrying on activities under this Act that are in contravention of another Act or a municipal by-law;
- (f) the applicant is unable to provide the resources and facilities required to manage a cemetery or crematorium; or
- (g) the applicant or an employee or agent of the applicant has made a false statement or provided false information in an application for a licence.

Issue of  
licence

(3) The Registrar shall issue a licence to own an identified cemetery or crematorium to an applicant therefor who pays the prescribed fee, complies with the regulations and is not disentitled under subsection (2).

Conditions  
attaching to  
licence

(4) A licence is subject to such conditions as may be consented to by the applicant, imposed by the Tribunal or prescribed.

Notice

(5) If the Registrar intends to refuse to issue a licence, the Registrar shall give the applicant notice of and reasons for the intention and, at the same time, advise the applicant of the right to appeal.

Appeal

(6) An applicant who receives a notice under subsection (5) may appeal the intended refusal to the Tribunal within fifteen days after receiving the notice.

Refusal to  
issue licence

(7) If no appeal is filed under subsection (6), the Registrar may refuse to issue the licence applied for.

Revocation  
of owner's  
licence

**16.—(1)** The Registrar may revoke or refuse to renew a licence to own a cemetery or a crematorium if,

- (a) the conduct or situation of the licensee is such as to disentitle the licensee from being granted a licence;
- (b) where the licensee is a corporation, the shareholders of the corporation have changed in the manner and to the extent prescribed; or
- (c) the Registrar has reasonable and probable grounds to believe that the continued operation of the cemetery or crematorium by the licensee,
  - (i) creates a risk to public health, safety or decency, or



- (ii) will result in a financial loss by members of the public because provisions of this Act or the regulations are not being complied with.

(2) If the Registrar intends to revoke or to refuse to renew a licence, the Registrar shall give the licensee notice of and reasons for the intention and, at the same time, advise the licensee of the right to appeal. Notice

(3) Any licensee who receives a notice under subsection (2) may appeal the intended revocation or refusal to the Tribunal within fifteen days after receiving the notice. Appeal

(4) If an appeal has been filed under subsection (3), the Registrar shall not revoke the licence unless the Tribunal determines that the licence should be revoked. Delay

(5) If no appeal is filed under subsection (3), the Registrar may revoke the licence after the time for appeal has expired. Where no appeal

(6) Section 14 does not apply to an owner whose licence is revoked so long as the Registrar is satisfied that the owner is making reasonable efforts to sell the cemetery or crematorium. Exception to licensing requirement

**17.—**(1) The Director may appoint a manager to operate a cemetery or crematorium in the place of the owner if, Appointment of manager

(a) the Director has reasonable and probable grounds, based on a statement under oath, to believe that the owner is doing or is about to do something in the operation of the cemetery or crematorium that,

(i) creates or is likely to create a risk to public health, safety or decency, or

(ii) is causing or is likely to cause financial loss to members of the public; or

(b) the owner's licence is revoked.

(2) A manager appointed under subsection (1) has all the powers of the owner with respect to the operation of the cemetery or crematorium including the power to exclude the owner and, if the owner is a corporation, the directors or officers of the corporation, from the premises of the business. Powers of manager

(3) From the appointment of a manager under subsection (1) until the appointment is cancelled, the owner being replaced does not have the authority to deal with any assets or Effect of appointment



trust funds relating to the cemetery or crematorium and shall not be involved in the operation of the cemetery or crematorium.

Appeal

(4) Any person affected by an appointment of a manager may apply to a judge of the Supreme Court for an order cancelling the appointment and the order may include such directions and conditions as seem appropriate.

Selling  
interment  
rights

**18.**—(1) No person shall sell interment rights unless that person does so as an agent acting on behalf of a licensed owner.

Selling  
supplies, etc.

(2) No person shall act as a sales representative on behalf of an owner unless that person is licensed as a sales representative and represents an owner specified in the sales representative's licence.

Exception for  
owners

(3) Subsections (1) and (2) do not apply to preclude a person licensed as an owner from selling rights, services or supplies to be used in or provided at a cemetery or crematorium owned by that person.

Licence to  
sell

**19.**—(1) An individual may apply to the Registrar for a licence to act as a sales representative on behalf of an owner.

Requirements  
for licence

(2) An applicant is entitled to a licence except if,

- (a) the past or present conduct of the applicant affords reasonable and probable grounds for believing that the applicant will not carry on business in accordance with the law and with integrity and honesty;
- (b) the applicant, in receiving the licence, would be in a position of apparent conflict of interest;
- (c) the applicant does not have a position with a licensed owner or a commitment to be hired by a licensed owner upon receiving a licence; or
- (d) the applicant has made a false statement or provided false information in an application for a licence.

Past conduct

(3) A conviction for an offence that involves misrepresentation or a lack of integrity or honesty is evidence, in the absence of evidence to the contrary, that the person convicted will not carry on business in accordance with the law and with integrity and honesty within the meaning of clause (2) (a).

(4) An applicant's intention to work for more than one owner is evidence, in the absence of evidence to the contrary, of an apparent conflict of interest.

Conflict of  
interest

(5) The Registrar shall issue a licence to act as a sales representative to every applicant therefor who pays the prescribed fee, complies with the regulations and is not disentitled under subsection (2).

Issue of  
licence

(6) A licence is subject to such conditions as may be consented to by the licensee, imposed by the Tribunal or prescribed.

Conditions  
attaching to  
licence

(7) If the Registrar intends to refuse to issue a licence, the Registrar shall give the applicant notice of and reasons for the intention and, at the same time, advise the applicant of the right to appeal.

Notice

(8) An applicant who receives a notice under subsection (7) may appeal the intended refusal to the Tribunal within fifteen days after receiving the notice.

Appeal

(9) If no appeal is filed under subsection (8), the Registrar may refuse to issue the licence.

Refusal to  
issue licence

**20.**—(1) The Registrar may revoke, suspend or refuse to renew a sales representative's licence if the conduct or situation of the licensee is such as to disentitle the licensee from being granted a licence.

Revoking,  
suspending or  
refusing to  
renew sales  
licence

(2) If the Registrar intends to revoke, suspend or refuse to renew a licence, the Registrar shall give the licensee notice of and reasons for the intention and, at the same time, advise the licensee of the right to appeal.

Notice

(3) If there are grounds to suspend a licence and the Registrar considers it to be in the public interest that the licence be suspended immediately, the Registrar may, by order, suspend a sales representative's licence with the order taking effect when it is made.

Immediate  
suspension

(4) An immediate suspension expires fifteen days after it is appealed to the Tribunal unless, before the fifteen days expire, the Tribunal extends the suspension.

Idem

(5) Any licensee who receives a notice under subsection (2) may appeal the intended revocation or suspension to the Tribunal within fifteen days after receiving the notice.

Appeal

- Idem (6) Any licensee whose licence is suspended under subsection (3) may appeal the suspension to the Tribunal.
- Delay (7) If an appeal has been filed under subsection (5), the Registrar shall not revoke or suspend the licence unless the Tribunal determines that the licence should be revoked or suspended.
- Where no appeal (8) If no appeal is filed under subsection (5), the Registrar may revoke or suspend the licence after the time for appeal has expired.
- Application **21.**—(1) A person who is refused a licence or a renewal of a licence under this Act may apply for a licence only after one year has passed since the refusal.
- Idem (2) A person whose licence is revoked under this Act may apply for a licence only after one year has passed since the revocation.
- Continuation **22.** The licence of a licensee who has applied for a renewal of the licence continues until,
- (a) the renewal is granted; or
  - (b) if the licensee is served with a notice that the Registrar intends to refuse to renew, the time for appeal has expired or, if an appeal is required, the matter has been finally determined.

#### CONSUMER PROTECTION

- Interment rights **23.**—(1) An interment rights holder may require, by written demand, the owner to repurchase the rights at any time before they are used.
- Idem (2) Every owner who receives a demand made under subsection (1) shall repurchase the interment rights within thirty days after receiving the demand.
- Idem (3) The repurchase price of interment rights shall be determined in the prescribed manner.
- Idem (4) An interment rights holder or the personal representative of the holder has the right to inter any human remains in a lot or other facility approved under this Act in accordance with the by-laws governing the facility.
- Idem (5) An interment rights holder or the personal representative of the holder may erect a commemorative marker on a lot



or other receptacle for human remains if the erection of the marker is not in contravention of the by-laws governing the facility.

(6) Every person has the right to reasonable access to a lot at any time except as prohibited by the by-laws governing the facility. Idem

(7) An interment rights holder and the relatives of any person whose remains are interred in a cemetery have the right to decorate the appropriate lot if the decoration is not in contravention of the by-laws governing the facility. Idem

(8) Subsection (1) does not apply to require repurchase of interment rights in a plot in which any interment rights have been exercised. Exception

**24.**—(1) A purchaser of pre-need supplies or services from an owner may cancel, by written notice to the owner, the contract to purchase at any time before the services or the supplies are provided or if the owner contravenes subsection (5). Pre-need  
services or  
supplies

(2) Subsection (1) or (5) does not apply if the supplies or services are provided within thirty days after the contract is made because of the death of the person for whom the supplies or services were contracted. Idem

(3) Subject to subsection (4), an owner who receives a notice that a contract is cancelled under this section shall refund to the purchaser all money, together with all income thereon, received under the contract within thirty days after receiving the notice. Idem

(4) An owner to whom this section applies may retain a service fee determined in the prescribed manner unless the contract is cancelled within thirty days after it is made. Idem

(5) No owner shall provide pre-need supplies or services under a contract within the thirty-day period immediately following the day the contract is made. Prohibition

(6) This section applies to contracts for pre-need supplies or services whether the contracts were made before or after this section comes into force. Application

**25.**—(1) A contract for the purchase of interment rights or cemetery supplies or services is not enforceable by an owner unless, Contract  
requirements



- (a) it is written, signed by both parties and complies with the regulations;
- (b) it sets out the purchaser's cancellation rights under this Act and whether or not cemetery supplies or services are to be provided before the death of the person for whom they are contracted;
- (c) the owner complies with subsections (2) and (3); and
- (d) the owner delivers a signed copy of the contract to the purchaser at the time the contract is made.

Idem           (2) An owner who sells interment rights must deliver to the purchaser at the time the contract is made a copy of the by-laws of the cemetery and a certificate of interment rights.

Idem           (3) An owner who sells pre-need supplies or services must set out in the contract exactly what the supplies or services are and the price charged for them.

Refund with interest       (4) An owner who receives money under a contract that is not enforceable because of the application of this section shall refund to the purchaser, immediately upon written demand, with interest at the prescribed rate, all money received.

Idem           (5) Subsection (4) applies even though the owner has paid the money into a trust fund that is not accessible to the owner.

Exception       (6) Subsection (4) does not apply, in the case of interment rights, after the rights are used or, in the case of cemetery supplies or services, after the supplies or services are provided.

Public information       **26.** Every owner shall make such information as is prescribed available to the public in the manner and form prescribed.

Price list       **27.—**(1) Every owner shall file with the Registrar a price list of all interment rights and cemetery services and supplies that may be sold and all charges that may be made by that owner.

Idem           (2) No owner shall charge or collect or receive money for interment rights or cemetery supplies or services that is more than the price for the rights, supplies or services filed by the owner with the Registrar and not disallowed.

(3) The Registrar, upon receiving a price list, may disallow, within thirty days after the list is filed, any price that, in the opinion of the Registrar, is excessive or significantly higher than current market price for the supplies, services or rights within the applicable area. Approval of list

(4) The Registrar shall give immediate written notice to the owner who filed the price list of any price on the list that is disallowed and, in the notice, shall give the reasons for the disallowance. Notice of disallowance

(5) If the Registrar disallows a price on a price list, the owner who filed the list may appeal the disallowance to the Tribunal. Appeal

(6) An owner who has charged any person a price that is disallowed by the Registrar shall pay, forthwith, to that person the difference between the price charged and the price allowed. Repayment

**28.—**(1) If the Registrar believes, on reasonable and probable grounds, that any person licensed under this Act has made a false or misleading public representation or a representation that is in contravention of this Act or the regulations, the Registrar shall order that person to stop making the representation and, in the order, shall set out the reasons for the order. Advertising

(2) A person who receives an order under subsection (1) shall immediately comply with the order and shall refrain from making the representation, in any form, in the future. Compliance with order

(3) Any person who receives an order under subsection (1) may appeal the order to the Tribunal. Appeal

(4) The Tribunal may issue a stay of any order made by the Registrar under subsection (1). Stay of order

**29.—**(1) No person shall contact, in any way, a person in a hospital, nursing home or such other institution as is prescribed for the purpose of suggesting that a contract for the purchase of interment rights or cemetery supplies or services be made. Soliciting prohibited

(2) No person shall contact, by telephone or in person, a person for the purpose of suggesting that a contract for the purchase of interment rights or cemetery supplies or services be made. Idem

- Exception (3) This section does not prohibit any contact made at the request of the person being contacted.
- Regulations (4) The Lieutenant Governor in Council may make regulations defining "contract" for the purpose of this section.
- Abandoned interment rights **30.**—(1) A cemetery owner may apply to the Registrar for a declaration that interment rights are abandoned.
- Idem (2) An application may be made under subsection (1) only in respect of interment rights that had been sold at least twenty years before the application and have not been used.
- Inquiry (3) The Registrar, on receiving an application under subsection (1), shall make such inquiry and direct the applicant to give such notices as seem reasonable in the circumstances.
- Declaration (4) Upon being satisfied that the rights are abandoned, the Registrar shall issue a declaration to that effect.
- Notice (5) The Registrar shall give notice of the declaration or the decision to not make the declaration to the applicant and to every person who has indicated to the Registrar an interest in the matter.
- Appeal (6) Any person who has an interest in the matter may appeal the decision of the Registrar to the Tribunal within thirty days after notice of the decision is given under subsection (5).
- Right to sell abandoned rights **31.** A cemetery owner may resell interment rights that have been declared abandoned,
- (a) if there is no appeal, at the end of the time for appeal; or
  - (b) if there is an appeal, when the appeal has been finally determined supporting the declaration.
- Rights holder's protection **32.**—(1) Any person whose interment rights have been resold after being declared abandoned may apply to the Registrar for redress.
- Idem (2) The Registrar, upon receiving an application under subsection (1), shall order the cemetery owner or the owner's successor, as the case may be, to provide, subject to subsection (6), better or equivalent interment rights in that cemetery or to refund an amount determined as prescribed.



(3) Any person whose interment rights have been declared abandoned but have not been resold may apply to the Registrar to have those rights restored. Idem

(4) The Registrar, upon receiving an application under subsection (3), shall order that the declaration be cancelled and that the rights be restored to the person entitled thereto. Idem

(5) This section does not apply in respect of interment rights in cemeteries that are abandoned. Exception

(6) If the cemetery referred to in subsection (2) is one in which interment rights are not available but the owner owns a cemetery in which interment rights are available, the applicant shall be given the option of accepting better or equivalent interment rights in that cemetery. Idem

**33.—**(1) If a marker has been erected on a lot that is the subject-matter of a declaration of abandonment, the cemetery owner shall remove and store it at the owner's expense for at least twenty years. Markers

(2) If an order is made under subsection 32 (2) to provide alternate interment rights, the cemetery owner shall re-erect the marker at the new site at the owner's expense. Idem

(3) If subsection (2) does not apply, the cemetery owner may dispose of the marker at the expiration of the twenty-year period. Idem

**34.—**(1) A cemetery owner who has available space shall provide, upon receiving a written instruction from a welfare administrator, Assisted burials, cemetery

- (a) a lot for the interment of the remains of any person referred to in the instruction;
- (b) opening and closing services in conjunction with the interment; and
- (c) such other related services as are prescribed.

(2) A crematorium owner shall provide, upon receiving a written instruction from a welfare administrator, Crematorium

- (a) a crematorium service for the remains of any person referred to in the instruction; and
- (b) such other related services as are prescribed.



## Exception

(3) Subsections (1) and (2) do not apply to require a religious organization to inter or cremate the remains of a person who is disentitled to burial or cremation in a cemetery or crematorium owned by that organization.

## Payment

(4) An owner who provides a service under this section is entitled to be paid the prescribed amount for the service by the welfare administrator.

## Welfare administrator

(5) The Lieutenant Governor in Council may make regulations defining "welfare administrator" for the purpose of this section and designating persons by title or job description who are considered welfare administrators for this purpose.

## TRUST FUNDS

Care and maintenance trust funds  
1987, c. 33

**35.**—(1) Every cemetery owner who sells, assigns or transfers interment rights shall establish with a corporation registered under the *Loan and Trust Corporations Act, 1987*, with that corporation as trustee, a trust fund designated the "Care and Maintenance Fund" for the purpose of providing money for the care and maintenance of the cemetery.

## Payments into fund

(2) An owner who is required to establish a fund under this section shall pay into the fund prescribed amounts within the prescribed times.

## Payments out of fund

(3) A trustee of a fund established under this section shall pay the income from the fund, after deducting therefrom the trustee's fees, to the owner of the cemetery involved.

## Use of money

(4) An owner receiving money pursuant to subsection (3) shall use the money for the upkeep of the cemetery and the markers and structures therein in the prescribed manner.

## Capital portion

(5) No trustee of a fund established under this section shall pay out any of the capital portion of the fund.

## Idem

(6) Subsection (5) does not apply to preclude a trustee from transferring the fund, with the consent of the Registrar, to another trustee.

## Municipal owners

(7) Despite subsection (1), an owner that is a municipality may act as the trustee of a Care and Maintenance Fund established by that municipality.

Pre-need assurance trust funds  
1987, c. 33

**36.**—(1) Every owner who sells pre-need cemetery supplies or services shall establish with a corporation registered under the *Loan and Trust Corporations Act, 1987*, with that

corporation as trustee, a trust fund designated as the "Pre-need Assurance Fund".

(2) Subsection (1) applies to an owner in respect of sales made by a person that the owner is associated or affiliated with in a manner that is prescribed. Idem

(3) An owner who is required to establish a fund under this section shall pay into the fund all money received for pre-need supplies or services within the prescribed times. Payments into fund

(4) A trustee of a fund established under this section shall hold all money received for the benefit of the purchaser until that portion of the contract in respect of which the money was paid is completed. Trust funds

(5) When a portion of a contract is completed, the trustee shall pay to the owner the lesser of, Idem

(a) the current market price filed with the Registrar for the supplies or services; or

(b) an amount equal to the payments made for the supplies or services together with income accrued on those payments.

(6) If the amount referred to in clause (5) (b) exceeds the price referred to in clause (5) (a), the trustee shall pay the amount of the excess to the owner. Idem

(7) If a contract in respect of which money is held in the trust fund is cancelled, the trustee shall pay, to the owner, the amount of the initial payments together with income accrued on that amount. Prior cancellation

(8) Subject to subsection 24 (4) (retention of service fee), an owner who receives a payment under subsection (7) shall pay the amount to the purchaser involved within twenty days after receiving the payment. Payment to purchaser

(9) An owner who receives a payment under subsection (6) shall pay the amount to the purchaser or, if an interment has taken place, to the estate of the person interred within twenty days after receiving the payment. Idem

(10) Despite subsection (1), an owner that is a municipality may act as the trustee of a Pre-need Assurance Fund established by that municipality. Municipal owners

Restrictions  
on trust  
agreements  
R.S.O. 1980,  
c. 512

**37.** No investment of money in a trust established pursuant to this Act shall be made except as permitted under section 26, 27 or 28 of the *Trustee Act* despite any other authorization or direction in the trust agreement.

Marker  
installation

**38.—(1)** Every person installing a marker in a cemetery shall pay to the cemetery owner the prescribed amount.

Payment into  
fund

**(2)** An owner receiving money pursuant to subsection (1) shall pay the money into the Care and Maintenance Fund established for that cemetery.

Idem

**(3)** An owner who does not receive payment under subsection (1) for a marker shall pay into the Care and Maintenance Fund a prescribed amount.

Trust funds  
held by  
owner

**39.—(1)** All money received by an owner that is required to be paid into a trust fund but that is not immediately turned over to a trustee of a trust fund shall be deposited by the owner in a trust account with a credit union or caisse populaire registered under the *Credit Unions and Caisses Populaires Act*, a chartered bank of Canada, the Province of Ontario Savings Office or a trust or loan corporation registered under the *Loan and Trust Corporations Act, 1987*.

R.S.O. 1980,  
c. 102

1987, c. 33

Idem

**(2)** Money deposited by an owner in a trust account under subsection (1) shall be placed by the owner into a trust fund or otherwise paid out in accordance with this Act or the regulations within the time prescribed.

Providing  
information,  
etc.

**40.—(1)** The Registrar or the Public Trustee may require any owner or trustee to provide,

- (a)** any information on trust accounts or trust funds that the owner or trustee is involved with; and
- (b)** audited financial statements on any trust account or trust fund relating to a cemetery or crematorium that the owner or trustee is involved with.

Idem

**(2)** Every owner or trustee who receives a request pursuant to subsection (1) shall forthwith provide all the information or statement required or an explanation as to why it is not possible to provide the information or statement.

Surrogate  
Court

**41.—(1)** The Registrar or the Public Trustee may apply to the Surrogate Court to pass the accounts of any trust fund.



(2) The court, on passing any account, may review and pass upon any agreement made by an owner of a cemetery or crematorium. Idem

(3) The court, on passing any account, may make any order that it considers necessary to ensure that the trust is carried out. Idem

**42.** No cemetery or crematorium owner shall charge or receive any compensation or payment for the effort or expense of establishing or maintaining a trust fund. No compensation to owner

**43.**—(1) Despite subsections 35 (1) and 36 (1), an owner who does not have a practical alternative may require the Public Trustee to act as a trustee for that owner's Care and Maintenance Fund or Pre-need Assurance Fund. Use of Public Trustee

(2) The Registrar and the Public Trustee have an interest in all trust funds. Interested parties

#### CEMETERY AND CREMATORIUM OPERATIONS

**44.**—(1) Every cemetery owner shall maintain, without charge to interment rights holders, the grounds of the cemetery, including all lots, structures and markers, to ensure the safety of the public and to preserve the dignity of the cemetery. Maintenance by cemetery owner

(2) Despite subsection (1), an owner of a non-commercial cemetery may charge interment rights holders, at a rate approved by the Registrar, for the maintenance of lots and markers that were sold before 1955 if there were no trust funds collected for that purpose. Exception

**45.** No owner shall carry on business, in a manner prescribed, in conjunction with a person licensed to operate a funeral establishment or transfer service. Operating with funeral establishment, etc.

**46.** Every cemetery owner shall ensure that all interments in the cemetery are carried out in a decent and orderly manner and that quiet and good order are maintained in the cemetery at all times. Good order

**47.** No person shall inter human remains except in a cemetery that has been consented to by the Registrar and is owned by an owner licensed under this Act. Interment in cemetery only

**48.** If a marker in a cemetery presents a risk to public safety because it is unstable, the owner of the cemetery shall Repairing markers



do whatever is necessary by way of repairing, resetting or laying down the marker so as to remove the risk.

Mortgage on cemetery

**49.**—(1) No encumbrance or charge on a cemetery or crematorium is enforceable unless it was given as security for money borrowed for,

- (a) the purpose of improving the facilities provided;
- (b) the purpose of acquiring land for a cemetery or crematorium; or
- (c) a purpose, approved by the Registrar, relating to the operation of the cemetery or crematorium.

Restriction

(2) No encumbrancer claiming an interest in a cemetery or crematorium may deal with the cemetery or crematorium except in accordance with this Act.

By-laws

**50.**—(1) No person shall operate a cemetery or crematorium except in accordance with the by-laws applying to that cemetery or crematorium.

Owner's by-laws

(2) An owner of a cemetery or crematorium may make by-laws affecting the operation of the cemetery or crematorium.

When effective

(3) No by-law made by an owner is effective until it is filed with and approved by the Registrar.

Prescribed by-laws

(4) The Lieutenant Governor in Council may make regulations prescribing by-laws that apply to cemeteries or crematoria or to any prescribed classes of cemeteries or crematoria.

Notice of by-laws

(5) An owner filing a by-law shall give such notice as is prescribed to such classes of persons as are prescribed.

Approval by Registrar

(6) A by-law filed with the Registrar under this section shall be approved by the Registrar unless the approval is not in the public interest or the effect of the by-law is to give the owner an unreasonable or unfair competitive advantage over another supplier of cemetery services or supplies.

Revocation of by-laws

(7) The Registrar may revoke any by-law that the Registrar could have refused to approve under subsection (6).

Idem

(8) Subsection (7) applies even though the Registrar has previously approved the by-law.

Notice of disallowance or revocation

(9) If the Registrar intends to refuse to approve or revoke a by-law, the Registrar shall give the owner notice of the inten-

tion and, at the same time, advise the owner of the right to appeal.

(10) An owner who receives a notice under subsection (9) may appeal the intended refusal or revocation to the Tribunal within fifteen days after receiving the notice. Appeal

(11) If an appeal is filed against an intended revocation, the Registrar shall not revoke the by-law unless the Tribunal determines that the by-law should be revoked. Delay in revocation

(12) If no appeal is filed against an intended revocation, the Registrar may revoke the by-law after the time for appeal has expired. Where no appeal

**51.**—(1) Subject to subsection (2), no person shall disinter any human remains without, Disinterment

(a) the prior consent of the interment rights holder; and

(b) notifying the proper medical officer of health.

(2) Subsection (1) does not apply to a disinterment ordered by, Where consent not required

(a) a court of competent jurisdiction;

(b) a coroner appointed under the *Coroners Act*; or

R.S.O. 1980,  
c. 93

(c) the Attorney General or Solicitor General for Ontario.

(3) For the purpose of clause (1) (a), the consent of the Registrar may be substituted for that of the interment rights holder if, Idem

(a) the whereabouts of an interment rights holder are not known;

(b) the interment rights holder is not readily ascertainable; or

(c) the interment rights holder is not able to consent.

(4) No person shall disinter human remains except in accordance with the regulations. Compliance with regulations

(5) Clause (1) (b) does not apply to the disinterment of cremated human remains. Exception

Consent of  
Registrar

**52.**—(1) The Registrar, before consenting to a disinterment, shall consider whether any known person may have an interest in the disposition of the remains and, if there may be such a person, shall order that notice of the intention to disinter be given.

Notice of  
intention

(2) A notice of intention to disinter shall be given in the manner and form set out in the order.

Objections

(3) Any person objecting to a disinterment may file a written objection with the Registrar at any time before the consent of the Registrar is given.

Idem

(4) If any person files an objection to a disinterment, the Registrar shall determine whether that person has an interest in the remains and, if so, shall ascertain the person's wishes.

Conditions  
for consent

(5) In giving a consent to a disinterment, the Registrar shall take into account the wishes of any person with an interest in the remains and make the consent subject to such conditions as the Registrar considers appropriate.

Notice of  
decision

(6) Notice of the Registrar's decision shall be given to the person who applied for the consent, to any person to whom notice is given under subsection (1) and to any person filing an objection.

Appeal

(7) A person receiving a notice under subsection (6) may appeal, to the Tribunal, the Registrar's decision within fifteen days after receiving the notice.

Delay

(8) If an appeal is filed under subsection (7), the Registrar shall not consent to the disinterment unless the Tribunal determines that the disinterment should proceed.

Where no  
appeal

(9) If no appeal is filed under subsection (6), the Registrar may consent to the disinterment after the time for appeal has expired.

Attendance  
by medical  
officer

**53.**—(1) A medical officer of health has the authority to attend at, supervise and direct a disinterment.

Diseases

(2) If a medical officer of health determines that remains are those of a person who died of a communicable disease within the meaning of the *Health Protection and Promotion Act, 1983*, the remains shall not be dealt with in any way except as prescribed by the regulations made under that Act.

1983, c. 10

Certificate  
required

**54.** No person shall remove human remains from a cemetery unless a certificate of a medical officer of health or the



cemetery owner confirming that this Act and the regulations have been complied with is affixed to the container.

**55.** A burial certificate under the *Vital Statistics Act* is not required to reinter human remains that have been disinterred in accordance with this Act and the regulations. R.S.O. 1980, c. 524, does not apply

**56.—(1)** No person shall cremate human remains except in a crematorium that has been established with the consent of the Registrar and is owned by an owner licensed under this Act. Cremation

(2) No person shall cremate human remains, Prohibitions

(a) for which there is not a coroner's certificate supplied by the Ministry of Consumer and Commercial Relations;

(b) in a container made of, or containing, non-flammable or hazardous material or a prescribed material; or

(c) in which a pacemaker or other prescribed device is implanted.

(3) Except if required by a welfare administrator, a crematorium owner has the right to refuse to cremate any human remains. Right to refuse

**57.** Every crematorium owner shall ensure that all cremations in the crematorium are carried out in a decent and orderly manner and that quiet and good order are maintained in the crematorium at all times. Good order

**58.—(1)** Any person who purchases a cremation service shall deposit, at the request of the crematorium owner, a prescribed amount with the owner to cover the cost of interring the cremated remains. Deposit re disposal

(2) An owner receiving money under subsection (1) shall hold the money in trust. Held in trust

(3) If the cremated remains are claimed by the interment rights holder within one year after the cremation, the owner shall refund the money to the person entitled thereto at the time of the claim. Refund

(4) If, after one year, the cremated remains have not been claimed and the owner has made reasonable efforts to contact the representatives of the deceased, the owner may inter them Owner's compensation



and is then entitled to the money held in trust as compensation.

Neglected  
cemetery

**59.**—(1) A municipality may order a cemetery owner who does not keep the cemetery in good order and repair to restore it to good order and repair.

Repairs

(2) If an owner does not restore a cemetery as specified in an order given under subsection (1) within such reasonable time as is set out in the order, the municipality may have the required work done and recover the costs thereof from the owner.

Abandoned  
cemeteries

**60.**—(1) An application to declare a cemetery abandoned may be made to a judge of the District Court if the owner of the cemetery,

- (a) cannot be found or is unknown;
- (b) is unable to maintain it;
- (c) was a corporation that was dissolved; or
- (d) is not licensed as an owner under this Act.

Application

(2) An application to declare a cemetery abandoned may be made by the owner of the cemetery, the municipality or the Registrar.

Notice of  
application

(3) If the application is not made by the Registrar, the person making the application must give notice of the application to the Registrar.

Costs

(4) The municipality is responsible for the cost of an application under this section including the cost of a survey of the land involved.

Declaration

(5) A judge to whom an application is made under subsection (1), upon being satisfied that there is a basis for the application, shall, by order, declare the cemetery that is the subject-matter of the application to be abandoned.

Municipality  
becomes  
owner

(6) Upon a declaration that a cemetery is abandoned being registered in the appropriate land registry office, the municipality becomes the owner of the cemetery with all the rights and obligations in respect to the cemetery and the assets, funds and trust accounts related thereto that the previous owner had.

(7) A declaration under this section may exempt the municipality being declared the owner from any provision of this Act or the regulations that it would be inappropriate, in the circumstances, for a new owner to be subject to.

Exemptions

(8) Upon an application being made to declare a cemetery abandoned, the municipality within which the cemetery is situated is responsible for the maintenance of the cemetery until the application is disposed of.

Maintenance

**61.** The Registrar may require any owner who has an interest in a cemetery that appears to be abandoned or neglected to maintain that cemetery as a condition of retaining a licence to own a cemetery or crematorium.

Dual interest

#### ADMINISTRATION

**62.—**(1) There shall be a Registrar appointed for the purposes of this Act.

Registrar

(2) There shall be one or more Deputy Registrars appointed who may exercise such powers and perform such duties of the Registrar as are delegated by the Registrar.

Deputy Registrars

(3) The Registrar, Deputy Registrars and all other employees necessary for the administration of this Act shall be appointed under the *Public Service Act*.

Application of  
R.S.O. 1980,  
c. 418

**63.—**(1) The Registrar may appoint inspectors to carry out inspections for the purpose of determining whether there is compliance with this Act and the regulations.

Inspectors

(2) An inspector exercising a power under this Act shall, on request, produce his or her certificate of appointment.

Certificate of appointment

**64.—**(1) For the purpose of ensuring compliance with this Act and the regulations, an inspector may,

Inspections

- (a) enter any place at any reasonable time;
- (b) request the production for inspection of documents or things that may be relevant to the inspection;
- (c) inspect and, upon giving a receipt therefor, remove documents or things relevant to the inspection for the purpose of making copies or extracts;
- (d) inquire into negotiations, transactions, loans or borrowings of a licensee and into assets owned,

acquired or disposed of by a licensee that are relevant to an inspection;

- (e) conduct such tests as are reasonably necessary to determine the integrity of a structure, fence or marker in a cemetery; and
- (f) remove materials or substances for examination or test purposes subject to the licensee or other occupant of the premises being notified thereof.

Entry to  
dwellings

(2) Subsection (1) does not apply to confer a power of entry to a room actually used as a dwelling without the consent of the occupier.

Warrant

(3) A justice of the peace may issue a warrant authorizing the person named in the warrant,

- (a) to do anything set out in clause (1) (a), (c), (e) or (f);
- (b) to enter and search a room actually used as a dwelling; or
- (c) to search for and seize any document or thing relevant to the inspection.

Requirements  
for warrant  
to issue

(4) A warrant may be issued under subsection (3) if the justice of the peace is satisfied on information under oath that in the case of a warrant to be issued under,

- (a) clause (3) (a), an inspector has been prevented from doing anything permitted under clause (1) (a), (c), (e) or (f) or there is reasonable ground to believe that an inspector may be prevented from doing any of those things;
- (b) clause (3) (b), it is necessary that a room actually used as a dwelling be entered for the purposes of carrying out an inspection or there is, in such a room, a document or thing that there is reasonable ground to believe is relevant to an inspection under this Act; or
- (c) clause (3) (c), it is necessary to search for and seize a document or thing that there is reasonable ground to believe will afford evidence relevant to a contravention of this Act or the regulations.



(5) A warrant issued under this section shall specify the hours and days during which it may be executed.

Execution of  
warrant

(6) Unless renewed, a warrant under this section expires not later than thirty days after the date on which it is made.

Expiry

(7) A warrant under this section may be issued or renewed upon application without notice.

Notice not  
required

(8) A warrant under this section may be renewed for any reason for which it may be issued.

Renewal of  
warrant

(9) A person doing any thing under the authority of a warrant issued under this section is authorized to call on such police officers to assist and to use such force as is necessary in the execution of the warrant.

Assistance

(10) An inspector carrying out an inspection, with or without a warrant, may be accompanied by such persons with expertise in the subject-matter of the inspection as the inspector considers necessary.

Use of  
experts

(11) An investigator taking material in order to copy it shall make the copy with reasonable dispatch and shall promptly return the material taken.

Copies

(12) Copies of, or extracts from, documents and things removed under this section and certified as being true copies of, or extracts from, the originals by the person who made them are admissible in evidence to the same extent as, and have the same evidentiary value as, the documents or things of which they are copies or extracts.

Admissibility  
of copies

**65.—**(1) No person shall obstruct an inspector in carrying out an inspection under this Act or withhold, destroy, conceal or refuse to provide any relevant information or thing required for the purpose of the inspection.

Obstruction  
of inspector

(2) It is a condition of each licence issued under this Act that the licensee facilitate an inspection relevant to that licence.

Facilitating  
inspection

**66.—**(1) If the Director has reasonable and probable grounds to believe that the owner of a cemetery or crematorium is doing or is about to do something that will jeopardize the public interest or the proper care and maintenance of a cemetery, the Director may direct any person holding, having on deposit or controlling assets of the owner or trust funds under the control of the owner to hold the assets or trust

Freezing  
assets



funds until further instructions are received from the Director to release a particular asset or trust fund from the direction.

Scope of  
direction

(2) In the case of a bank or a corporation, a direction under subsection (1) applies only to the offices, branches or agencies thereof named in the direction.

Application  
for directions

(3) Any person named in a direction issued under subsection (1), if in doubt as to the application of the direction to particular assets or trust funds, may apply to the Director for an order of clarification.

Revocation  
or  
amendment  
of direction

(4) On an application of the owner or any other person having an interest therein, the Director may make an order on such conditions as are set out in the order revoking the direction or consenting to the release of a particular asset or trust fund from the direction.

Appeal

(5) Any person affected by a direction or order of the Director made under this section or a refusal to make an order may appeal to the Tribunal.

Restraining  
order

**67.**—(1) If the Director is of the opinion that any person is not complying with this Act or the regulations, despite the imposition of any penalty in respect of the non-compliance and in addition to any other remedy available, the Director may apply to a judge of the High Court for an order directing the person to comply.

Idem

(2) Upon an application under subsection (1), the judge may make the order applied for or such other order as the judge thinks appropriate.

Idem

(3) An appeal lies to the Divisional Court from an order made under subsection (2).

#### BURIAL SITES

Disturbing  
burial site  
prohibited

**68.** No person shall disturb or order the disturbance of a burial site or artifacts associated with the human remains except,

(a) on instruction by the coroner; or

(b) pursuant to a site disposition agreement.

Unmarked  
burial sites

**69.** Any person discovering or having knowledge of a burial site shall immediately notify the police or coroner.

**70.**—(1) The Registrar may order the owner of land on which a burial site is discovered to cause an investigation to be made to determine the origin of the site. Investigation

(2) Section 68 does not apply to a person investigating the nature or origin of the site who is disturbing the site in the course of the investigation. Idem

(3) A person conducting an investigation shall do so with the minimum disturbance to the site that is reasonable in the circumstances. Idem

(4) If the Registrar is of the opinion that an investigation under subsection (1) would impose an undue financial burden on the land owner, the Registrar shall undertake the investigation. Idem

**71.**—(1) As soon as the origin of a burial site is determined, the Registrar shall declare the site to be, Declaration

(a) an unapproved aboriginal peoples cemetery;

(b) an unapproved cemetery; or

(c) an irregular burial site.

(2) For the purpose of subsection (1), Interpretation

(a) an irregular burial site is a burial site that was not set aside with the apparent intention of interring therein human remains;

(b) an unapproved cemetery is land set aside with the apparent intention of interring therein, in accordance with cultural affinities, human remains and containing remains identified as those of persons who were not one of Canada's aboriginal peoples;

(c) an unapproved aboriginal peoples cemetery is land set aside with the apparent intention of interring therein, in accordance with cultural affinities, human remains and containing remains identified as those of persons who were one of Canada's aboriginal peoples.

**72.**—(1) The Registrar, on declaring a burial site to be an unapproved aboriginal peoples cemetery or an unapproved cemetery, shall serve notice of the declaration on such persons or class of persons as are prescribed. Site disposition agreement

- Idem (2) All persons served with notice under subsection (1) shall enter into negotiations with a view of entering into a site disposition agreement.
- Idem (3) If a site disposition agreement is not made within the prescribed time, the Registrar shall refer the matter to arbitration.
- Idem (4) Despite subsection (3), the Registrar, if of the opinion that an agreement may be reached, may defer referring the matter to arbitration so long as there appears to be a reasonable prospect of an agreement being reached.
- Arbitrated settlement **73.** The persons named in an arbitrated settlement who have been given the opportunity to fully participate in the arbitration process are bound by the settlement whether they chose to participate or not.
- Irregular burial site **74.—(1)** An owner of land that contains an irregular burial site shall ensure that the remains found in the site are interred in a cemetery.
- Charges (2) No owner of a cemetery interring human remains for an owner of land to whom this section applies may charge more than the prescribed amount for the interment.
- War Graves **75.—(1)** No person shall alter or move the remains or marker of a Canadian or Allied veteran or a Commonwealth War Burial without the agreement of the Department of Veterans Affairs (Federal), the Commonwealth War Graves Commission or such other persons and associations as are prescribed.
- Idem (2) Subsection (1) applies only if the Department of Veterans Affairs (Federal) contributed to the cost of the interment.
- Idem (3) If an agreement is not reached, the person who wants to make the alteration or move may apply to the Registrar for directions.
- Idem (4) When an application is made under subsection (3), the Registrar shall instruct the applicant to give notice of the application to such persons and associations as the Registrar considers may have an interest in the matter.
- Idem (5) All persons and associations receiving a notice under subsection (4) may make submissions on the matter to the Registrar in such form and manner as the Registrar instructs.



(6) After considering all submissions made, the Registrar shall direct the applicant on the manner of dealing with the remains or marker in question. Idem

(7) Subsection (1) does not apply to a person altering or moving remains or markers in accordance with the direction of the Registrar. Idem

**76.—**(1) The Lieutenant Governor in Council may make regulations, Regulations

1. prescribing documents, information and notices to be provided in the course of an application;
2. prescribing fees and requiring the payment of fees;
3. providing for the manner in which a deposit required for approval shall be applied or returned;
4. prescribing classes of cemeteries;
5. prescribing, for any notice required to be given under this Act, the type of notice and the manner in which it is to be given;
6. prescribing requirements and standards for the placing and spacing of interments, markers, fixtures, fences or other structures in a cemetery;
7. prescribing the minimum depth of coverage for in-ground burials;
8. prescribing the drains, sewers and other structures for the flow of water required in a cemetery;
9. governing mausolea, columbaria and other structures on or in a cemetery and establishing construction standards;
10. prescribing classes and types of licences;
11. governing the issue of licences and providing for the renewal of licences;
12. governing the term during which each class or type of licence is valid;
13. prescribing conditions that attach to any class or type of licence;



14. providing for posting of bonds and prescribing the amounts thereof;
15. providing for the forfeiture of posted bonds and for the distribution of the proceeds of forfeited bonds;
16. prescribing practices or actions that are evidence of incompetence or lack of honesty and integrity;
17. requiring the approval of the Registrar for promotional and sales material and prescribing the criteria for approval;
18. prescribing the type of promotional and sales material that requires the approval of the Registrar and providing for its submission to the Registrar;
19. governing and prohibiting the use of any promotional or sales material or any practice;
20. prescribing records and information to be kept by licensees;
21. providing for and requiring the submission of records and information and providing for access by agents of the Registrar to records and information;
22. prescribing the form of and conditions to be included in contracts for the sale of interment rights and cemetery supplies and services;
23. prescribing the information to be supplied to purchasers of interment rights and cemetery supplies and services;
24. prescribing the form of and information to be included in certificates of interment rights;
25. prescribing information to be provided to the public, any person or any class of persons and prescribing the manner of providing that information;
26. governing advertising and the manner of soliciting business;
27. requiring the use of any prescribed forms;
28. providing for and requiring the submission of records and information and providing for access by agents of the Registrar to records and information;

29. governing the use of contracts and certificates;
30. governing the uses to which owners may apply income from Care and Maintenance Funds;
31. prescribing records and information on trust funds to be provided to purchasers of interment rights and pre-need supplies or services;
32. governing the establishment, maintenance and operation of trust funds including the Care and Maintenance Fund and the Pre-need Assurance Fund;
33. governing the payment of money into and out of trust funds including the time within which and the circumstance under which payments are to be made;
34. prescribing fees that may be retained by trustees in respect of any type of trust fund;
35. governing the interment, disinterment, disposition and removal of human remains;
36. governing the preparation of disinterred human remains for transportation including prescribing the design and material of container to be used;
37. prescribing standards for the construction and installation of markers and other cemetery supplies and requiring compliance with the standards;
38. governing the standards of care and maintenance required for a cemetery;
39. governing the procedure for approving by-laws made by owners and for revoking any by-laws made by owners;
40. prescribing the criteria that the Registrar shall use in approving by-laws;
41. governing the manner of conducting cremations and dealing with cremated remains;
42. prescribing amounts to be deposited, in trust, to compensate for disposing of cremated remains and regulating the handling of the trust moneys;

43. governing the location and ownership of cemeteries and crematoria;
44. governing prices and the range of prices that may be included on price lists filed with the Registrar by owners;
45. prescribing procedures to be followed in dealing with burial sites and requiring that they be followed;
46. governing arbitration in the absence of a site disposition agreement and requiring compliance with prescribed procedure;
47. prescribing the subject-matters to be contained in a site disposition agreement or arbitration settlement and requiring their inclusion;
48. exempting any person or class of persons, any cemetery or class of cemetery or any thing or class of thing from any provision of this Act or the regulations;
49. prescribing conditions subsequent or precedent for a prescribed exemption and providing that an exemption may be subject to the Registrar being satisfied that it is not contrary to the public interest;
50. prescribing what constitutes notice in any provision where notice is required to be given;
51. governing the time for giving any notice for which a time is not set out in this Act and delegating to the Registrar power to extend any prescribed time;
52. prescribing any thing that is referred to in this Act as being prescribed.

Limitation

(2) Any regulation may be general or specific or of limited application.

Interfering  
with  
cemetery

**77.** No person shall cause or commit a nuisance in a cemetery or wilfully and unlawfully disturb persons assembled for the purpose of interring human remains in a cemetery.

Cause of  
action

**78.—(1)** Any person who, in a cemetery, damages or moves any tree, plant, marker, fence, structure or other thing usually erected, planted or placed in a cemetery is liable to

the cemetery owner and any interment rights holder who, as a result, incurs damage.

(2) In an action under subsection (1), the amount of damages shall be the amount required to restore the cemetery to the state that it was in before any thing was damaged or moved by the person liable. Idem

(3) Any person collecting damages under this section shall use the full amount collected to restore the cemetery. Idem

**79.—**(1) Every person who, Offence

(a) furnishes false, misleading or incomplete information in an application under this Act or in a statement or return required to be furnished under this Act or the regulations;

(b) fails to comply with an order made under this Act;  
or

(c) contravenes any provision of this Act or the regulations,

is guilty of an offence.

(2) Every director or officer of a corporation who concurs in an offence under this Act is guilty of an offence. Idem

(3) An individual who is convicted of an offence under this Act is liable to a fine of not more than \$20,000 and, on a subsequent conviction, to a fine of not more than \$20,000 and to imprisonment for a term of not more than one year. Idem

(4) A corporation that is convicted of an offence under this Act is liable to a fine of not more than \$40,000. Idem

(5) Subject to subsection (6), no proceeding under this section shall be commenced more than two years after the offence was committed. Limitation

(6) No proceeding under clause (1) (a) or subsection 35 (2) or 36 (3) shall be commenced more than one year after the facts upon which the proceeding is based first came to the knowledge of the Registrar. Idem

(7) If a person is convicted of an offence under this Act, the court making the conviction may, in addition to any other penalty, order the person convicted to make compensation or restitution in relation thereto. Restitution



Certificate as  
evidence

**80. A statement as to,**

- (a) the consent or lack of consent to establish, alter or increase the capacity of a cemetery or crematorium;
- (b) the licensing or non-licensing of any person;
- (c) the filing or non-filing of any document or material required or permitted to be filed with the Registrar;
- (d) the time when the facts upon which proceedings are based first came to the knowledge of the Registrar; or
- (e) any other matter pertaining to licensing, non-licensing, filing or non-filing,

purporting to be certified by the Registrar is, without proof of the office or signature of the Registrar, admissible in evidence in any proceeding, in the absence of evidence to the contrary, of the facts stated therein.

Municipal  
powers

**81.—(1) A municipality may expropriate,**

- (a) a cemetery or part thereof, whether the cemetery exists within or outside the municipality; and
- (b) land on which to establish or enlarge a cemetery.

Idem

**(2) The council of a municipality may pass by-laws authorizing,**

- (a) the purchase of a cemetery or part thereof that is situated within the municipality;
- (b) the acquisition of land within the municipality or in an adjacent township or unorganized territory for a cemetery or for the enlargement of an existing cemetery owned by the municipality; or
- (c) the sale, transfer or lease of a cemetery or part thereof.

Tribunal

**82.—(1) If there is an appeal under this Act to the Tribunal, it shall appoint a time for and hold a hearing.**

Order

**(2) After holding a hearing, the Tribunal may by order direct the Registrar to take an intended action or to refrain from taking an action or to take such action as the Tribunal considers that the Registrar ought to take and for such pur-**

poses the Tribunal may substitute its opinion for that of the Registrar.

(3) The Tribunal may attach such conditions to its order or to the licence as it considers proper to give effect to the purposes of this Act. Conditions

(4) The Registrar, the applicant or licensee who has required the hearing and such other persons as the Tribunal may specify are parties to proceedings before the Tribunal under this Act. Parties

**83.**—(1) A notice, order or other document under this Act or the regulations is sufficiently given, served or delivered if delivered personally or sent by first class mail addressed to the person to whom it is to be given, served or delivered at that person's last known address. Service

(2) A notice, order or other document sent by first class mail in accordance with subsection (1) shall be deemed to be given, served or delivered on the fifth day after the day of mailing, unless the person to whom it is sent establishes that the notice, order or other document was not received until a later date because of absence, accident, illness or other cause beyond that person's control. Idem

**84.** Despite the fact that a licensee appeals from an order of the Tribunal under section 11 of the *Ministry of Consumer and Commercial Relations Act*, the order takes effect immediately but the Tribunal may grant a stay until the disposition of the appeal. Stay  
R.S.O. 1980,  
c. 274

**85.** The Registrar may, at any time, cancel a licence upon the written request of the licensee and the surrender of the licence by the licensee. Surrender of  
licence

**86.**—(1) An approval given under the *Cemeteries Act*, being chapter 59 of the Revised Statutes of Ontario, 1980, shall be deemed to be a consent given under this Act. Transition

(2) Every person who is an owner on the day this Act comes into force shall be deemed to be licensed under this Act to own the cemetery or crematorium. Idem

(3) Every person who was employed as a sales representative selling interment rights, cemetery supplies or cemetery services on the day this Act comes into force shall be deemed to be licensed as a sales representative under this Act representing the owner employing that person. Idem

- Idem (4) Subject to subsection (5), subsections (2) and (3) cease to apply one year after this Act comes into force.
- Idem (5) If a person who is deemed, under subsection (2) or (3), to be licensed under this Act applies for a comparable licence under this Act within one year after this Act comes into force, the deemed licence remains in force until the application is finally disposed of.
- Idem (6) Funds set up under the *Cemeteries Act*, being chapter 59 of the Revised Statutes of Ontario, 1980, for,
- (a) perpetual care shall be deemed to be a Care and Maintenance Fund; and
  - (b) pre-need supplies or services shall be deemed to be a Pre-need Assurance Fund.
- Act prevails **87.** This Act prevails over the *Ontario Heritage Act*, being chapter 337 of the Revised Statutes of Ontario, 1980.
- 88.** Section 1 of *The Toronto General Burying Grounds Act, 1977*, being chapter 110, is repealed and the following substituted therefor:
- Power to acquire land **1.** The Trustees of the Toronto General Burying Grounds may, in addition to its existing powers to acquire and hold land, acquire and hold land and may exercise all its corporate powers with reference thereto.
- Repeal **89.** The *Cemeteries Act*, being chapter 59 of the Revised Statutes of Ontario, 1980, is repealed.
- Commence-ment **90.** This Act comes into force on a day to be named by proclamation of the Lieutenant Governor.
- Short title **91.** The short title of this Act is the *Cemeteries Act, 1989*.

# Bill 31

## **An Act to revise the Cemeteries Act**

**The Hon. G. Sorbara**

*Minister of Consumer and Commercial Relations*

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*1st Reading*      June 12th, 1989

*2nd Reading*      June 21st, 1989

*3rd Reading*

*Royal Assent*

*(Reprinted as amended by the Resources Development Committee)*

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## EXPLANATORY NOTES

The Bill revises the existing *Cemeteries Act*.

The purpose of the Bill is to regulate the establishment and management of cemeteries and crematoria and to provide a larger measure of consumer protection. The main features of the Bill are:

1. Appointment of a Registrar to administer the Act.
2. Municipal control of the establishment, alteration and enlargement of cemeteries and crematoria, with appeal of municipal decisions to the Ontario Municipal Board.
3. Providing for the licensing of owners of cemeteries and crematoria and of sales representatives.
4. Provisions govern contracts for the sale of interment rights, supplies and services by owners of cemeteries and crematoria, providing information disclosure and rights of cancellation for pre-need purchases.
5. Telephone and door-to-door solicitation for the sale of interment rights, cemetery supplies and services is prohibited.
6. Provisions are made to protect unmarked burial sites, resolve their status and settle disputes regarding their disposition.
7. Provisions regarding Care and Maintenance Trust Funds (formerly Perpetual Care) are expanded to apply to monuments.
8. Provisions governing cemetery abandonment are streamlined, giving municipalities full title to abandoned sites and associated trust funds.

**Bill 31****1989****An Act to revise the Cemeteries Act**

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

**1. In this Act,**

Definitions

“burial site” means land containing human remains that has not been approved or consented to as a cemetery in accordance with this Act or a predecessor of this Act;

“by-laws”, when used in relation to a cemetery, means the rules under which a cemetery or crematorium is operated;

“cemetery” means land set aside to be used for the interment of human remains and includes a mausoleum, columbarium or other structure intended for the interment of human remains;

“cemetery services” means,

(a) in respect of a lot,

(i) opening and closing of a grave,

(ii) interring or disinterring human remains,

(iii) providing temporary storage in a receiving vault,

(iv) construction of a foundation for a marker,

(v) setting of corner posts,

(vi) providing,

(A) a tent or canopy,

(B) carrying and lowering devices, and

- (C) ground cover,
  - for an interment service, and
  - (vii) preparing flower beds and planting flowers and shrubs,
- (b) in respect of a crypt or compartment in a mausoleum,
  - (i) opening, closing and sealing of the crypt or compartment,
  - (ii) providing temporary storage in a vault or crypt,
  - (iii) providing a tent or canopy for an interment service, and
  - (iv) providing elevating devices,
- (c) in respect of a niche or compartment in a columbarium,
  - (i) opening, closing and sealing of the niche or compartment, and
  - (ii) providing a tent or canopy for an interment service,
- (d) in respect of a crematorium, all services provided by the owner of the crematorium at the crematorium, and
- (e) in respect of a cemetery, such other services as are provided by the owner of the cemetery at the cemetery;

“cemetery supplies” includes interment vaults, markers, flowers, liners, urns, shrubs and artificial wreaths and other articles intended to be placed in a cemetery;

“columbarium” means a structure designed for the purpose of interring cremated human remains in sealed compartments;

“commercial cemetery” means a cemetery operated for the purpose of making a profit for the owner;

“crematorium” means a building fitted with appliances for the purpose of cremating human remains and includes everything incidental and ancillary thereto;

“Director” means a Director appointed under the *Ministry of Consumer and Commercial Relations Act*; R.S.O. 1980,  
c. 274

“equity share” means a share of a class of shares that carries a voting right either under all circumstances or under some circumstances that have occurred and are continuing;

“human remains” means a dead human body and includes a cremated human body;

“income” means the interest or money earned, including the compounding thereof, by the investment of funds;

“inter” means the burial of human remains and includes the placing of human remains in a lot;

“interment rights” includes the right to require or direct the interment of human remains in a lot;

“interment rights holder” means a person with interment rights with respect to a lot and includes a purchaser of interment rights under the *Cemeteries Act*, being chapter 59 of the Revised Statutes of Ontario, 1980, or a predecessor of that Act;

“land registry office” means the land registry office or the land titles office in the area in which a cemetery is located;

“lot” means an area of land in a cemetery containing, or set aside to contain, human remains and includes a tomb, crypt or compartment in a mausoleum and a niche or compartment in a columbarium;

“marker” means any monument, tombstone, plaque, headstone, cornerstone, or other structure or ornament affixed to or intended to be affixed to a burial lot, mausoleum crypt, columbarium niche or other structure or place intended for the deposit of human remains;

“mausoleum” means a building or structure, other than a columbarium, used as a place for the interment of the human remains in sealed crypts or compartments;

“Minister” means the Minister of Consumer and Commercial Relations;



“municipality” means the corporation or other entity having municipal jurisdiction in the area in which a cemetery is located and includes a police village, city, town, village, township or improvement district or the council thereof;

“owner” means an owner of a cemetery or a crematorium;

“person” includes a board of trustees, local council of a municipality or other organization or group of persons organized for the purpose of operating or managing a cemetery;

“plot” means two or more lots in which the rights to inter have been sold as a unit;

“pre-need supplies or services” means cemetery supplies or services that are not required to be provided until the death of a person alive at the time the arrangements are made;

“prescribed” means prescribed by the regulations made under this Act;

“Registrar” means the Registrar appointed under this Act;

“sales representative” means,

- (a) a person who sells or offers for sale interment rights or cemetery supplies or services on behalf of a commercial cemetery, or
- (b) a person whose primary employment is selling interment rights or cemetery supplies or services;

“Tribunal” means The Commercial Registration Appeal Tribunal;

“trust fund” means a trust fund established for the purpose of this Act.

#### CONSENT TO ESTABLISH CEMETERY OR CREMATORIUM

Consent for  
cemetery,  
etc.

**2.** No person shall establish, alter or increase the capacity of a cemetery or crematorium without the consent of the Registrar.

Application  
for consent

**3.—(1)** An applicant for consent shall apply to the Registrar and,

- (a) pay the prescribed fee;

- (b) submit the prescribed documents showing the layout of the cemetery and the location of existing or proposed plots, lots, structures and fixtures; and
- (c) if the applicant is the owner of a commercial cemetery or a cemetery of a class prescribed for the purpose of this clause, pay a deposit in a prescribed amount into a Care and Maintenance Fund.

(2) If the cemetery or crematorium is proposed to be established or already exists in an area with municipal organization, the applicant, before applying for the consent of the Registrar, must obtain the approval to the proposal of the appropriate municipality. Approval required

(3) If the cemetery or crematorium is to be established or enlarged to encroach on land, in an area without municipal organization, that is Crown land at the time of the application for consent, the applicant, before applying for the consent of the Registrar, must obtain the approval to the proposal of the Minister of Natural Resources. Idem

4. A municipality that receives a request for an approval required by subsection 3 (2) may hold public hearings to determine if the approval is in the public interest. Public hearings

5.—(1) A municipality, upon receiving a request for approval, shall give or refuse to give the approval within a reasonable time after receiving the request. Decision

(2) In considering a request for an approval, the principal factor shall be the public interest. Public interest

(3) A municipality shall, upon arriving at a decision on an application, Notice of decision

(a) send a copy of the decision together with the reasons for it to the Registrar and to the applicant; and

(b) publish notice of the decision in a local newspaper.

(4) The applicant, Registrar or any person with an interest therein may, within fifteen days after publication of the notice of the decision, refer the decision of a municipality to the Ontario Municipal Board for a hearing. Appeal

(5) Despite subsection (4), if an applicant or the Registrar does not receive a copy of a decision until after the decision is published, the fifteen days referred to in subsection (4) apply Idem

after the applicant or Registrar, as the case may be, receives the copy.

Representation

(6) The Registrar is entitled to make representations to the Ontario Municipal Board in any appeal under subsection (4).

Board decision

**6.—**(1) The Ontario Municipal Board may reverse the decision appealed from and substitute its own decision.

Idem

(2) A decision of the Board that is substituted under subsection (1) shall be deemed to be the decision of the municipality.

Certificate of consent

**7.—**(1) The Registrar shall give a certificate of consent to the establishment, alteration or increase in the capacity of a cemetery or crematorium, as the case may be, if,

- (a) the applicant has the approval of the municipality or the Minister of Natural Resources;
- (b) the applicant is licensed to own that cemetery and is and will be on the granting of the licence in compliance with the requirements of this Act and the regulations and the laws intended for the protection of the environment and of health; and
- (c) where neither approval referred to in clause (a) is required, the Registrar is satisfied that the consent is in the public interest.

Notice of refusal to issue

(2) The Registrar, on refusing to give a certificate of consent, shall advise the applicant, in writing, of,

- (a) the reason for the refusal; and
- (b) the applicant's right to appeal.

Appeal

(3) An applicant who receives a notice under subsection (2) may appeal to the Tribunal within fifteen days after receiving the notice.

Order by Tribunal

(4) If the Tribunal finds that the applicant is in compliance with clauses (1) (a) and (b) or that giving the consent is in the public interest, as the case may be, the Tribunal shall order the Registrar to issue the certificate of consent applied for or a consent in a modified version.

Idem

(5) Upon receiving an order under subsection (4), the Registrar shall issue the certificate as ordered.

(6) A certificate of consent shall contain a sufficient description of the cemetery or crematorium so that the certificate may be registered in the appropriate land registry office. Registration

(7) Upon registration of a certificate of consent, the land described therein becomes a cemetery. Effect of registration

#### CLOSING CEMETERY

8.—(1) In this section and in sections 9, 10, 11, 12 and 13, a reference to a cemetery includes any part of a cemetery. Closing cemetery

(2) The Registrar may order a cemetery closed if the closing is in the public interest. Idem

(3) An order shall not be made under subsection (2) until, Notice

(a) notice of the intention to make the order is given in the manner and to the persons prescribed; and

(b) interested persons are given the opportunity to make submissions to the Registrar within such time as is prescribed.

(4) Notice is not required if, Idem

(a) the request is from the owner;

(b) no interments have been made in the cemetery to be closed; and

(c) the consent of all affected interment rights holders has been obtained.

9.—(1) In an order to close a cemetery, the Registrar may, Order

(a) declare a cemetery or a portion thereof closed;

(b) require the owner to disinter all human remains therein and specify the manner of disinterment and the manner and place of reintering or dealing with the remains;

(c) require the owner to remove any markers and relocate them to a specified place; and

(d) require the owner to provide or acquire equivalent interment rights for all holders of interment rights with respect to unused lots in the cemetery.



- Substitution (2) In an order to close a cemetery, the Registrar may designate another person to do anything that the owner may be required to do.
- Notice (3) The Registrar shall give every person who made a submission notice of the order and at the same time advise the person of the right of appeal.
- Coming into force (4) Subject to subsection (5), an order to close a cemetery comes into force thirty days after it is made unless there is an appeal filed before the order comes into force or the order sets out a later date.
- Idem (5) If submissions were made in respect of the order, the order comes into force thirty days after notice has been given to each person who made a submission unless there is an appeal filed before the order comes into force or the order sets out a later date.
- Idem (6) An order that is appealed comes into force upon being upheld by the Tribunal.
- Appeal **10.** A person with an interest therein may appeal, to the Tribunal,
- (a) an order to close a cemetery any time before the order comes into force; or
  - (b) a refusal to order a cemetery closed.
- Certificate **11.—**(1) The Registrar, upon being satisfied that the requirements in an order to close a cemetery have been complied with, shall issue a certificate, with a legal description of the land involved, that the cemetery is closed.
- Idem (2) Despite subsection (1), an applicant therefor is entitled to a certificate that a cemetery is closed if the cemetery had been closed by the Lieutenant Governor in Council but a certificate issued under subsection 59 (7) of the *Cemeteries Act*, being chapter 59 of the Revised Statutes of Ontario, 1980, or a predecessor of that subsection has not been registered.
- Registration (3) A certificate issued under this section may be registered in the appropriate land registry office.
- Effect of registration (4) Upon registration of a certificate of closing, the land described therein ceases to be a cemetery.
- Maintenance fund **12.—**(1) Where any money has been paid into a care and maintenance fund with respect to a cemetery that is to be

closed, the Registrar shall direct that money to be transferred to the trustee of the fund maintained by the owner of the cemetery into which the human remains are to be reinterred or where the interment rights are to be exercised.

(2) The amount transferred under subsection (1) is a credit against the amount required to be paid into the fund by the owner of the cemetery into which the human remains are to be reinterred or where the interment rights are to be exercised. Idem

**13.** Where any money has been paid into a pre-need assurance fund with respect to interment rights in a cemetery that is to be closed, the Registrar shall direct that money to be paid to the trustee of the fund maintained by the owner of the cemetery where alternative interment rights have been made available for the holders of interment rights in the cemetery to be closed. Pre-need assurance fund

#### LICENCES

**14.** No person shall own a cemetery or crematorium unless licensed under this Act to own that cemetery or crematorium. Licence required

**15.—(1)** A person may apply to the Registrar for a licence to own a cemetery or crematorium. Licence to own

(2) An applicant is entitled to a licence except if, Requirements

(a) the applicant cannot reasonably be expected to be financially responsible in the operation of a cemetery or crematorium;

(b) the past or present conduct of the persons referred to in subsection (3) affords reasonable grounds for belief that the applicant will not operate in accordance with the law and with integrity and honesty;

(c) the applicant or managing employees of the applicant do not have the experience and competence required to manage the cemetery or crematorium in accordance with the law;

(d) the applicant is carrying on activities that are, or will be if the applicant is licensed, in contravention of this Act or the regulations;

(e) the applicant will, if licensed, be carrying on activities under this Act that are in contravention of another Act or a municipal by-law;

- (f) the applicant is unable to provide the resources and facilities required to manage a cemetery or crematorium; or
- (g) the applicant or an employee or agent of the applicant has made a false statement or provided false information in an application for a licence.

Idem

➡ (3) Clause (2) (b) applies to the following persons:

1. The applicant.
2. An officer or director of the applicant.
3. A person holding more than 10 per cent of the equity shares of the applicant or an officer or director of such person.
4. Any person having a beneficial interest in the operation of the business of the applicant or licensee.

Issue of  
licence

(4) The Registrar shall issue a licence to own an identified cemetery or crematorium to an applicant therefor who pays the prescribed fee, complies with the regulations and is not disentitled under subsection (2). ➡

Conditions  
attaching to  
licence

(5) A licence is subject to such conditions as may be consented to by the applicant, imposed by the Tribunal or prescribed.

Notice

(6) If the Registrar intends to refuse to issue a licence, the Registrar shall give the applicant notice of and reasons for the intention and, at the same time, advise the applicant of the right to appeal.

Appeal

(7) An applicant who receives a notice under subsection (6) may appeal the intended refusal to the Tribunal within fifteen days after receiving the notice.

Refusal to  
issue licence

(8) If no appeal is filed under subsection (7), the Registrar may refuse to issue the licence applied for.

Revocation  
of owner's  
licence

**16.—**(1) The Registrar may revoke or refuse to renew a licence to own a cemetery or a crematorium if,

- (a) the conduct or situation of the licensee is such as to disentitle the licensee from being granted a licence;



- (b) where the licensee is a corporation, the shareholders of the corporation have changed in the manner and to the extent prescribed; or
- (c) the Registrar has reasonable and probable grounds to believe that the continued operation of the cemetery or crematorium by the licensee,
  - (i) creates a risk to public health, safety or decency, or
  - (ii) will result in a financial loss by members of the public because provisions of this Act or the regulations are not being complied with.

(2) If the Registrar intends to revoke or to refuse to renew a licence, the Registrar shall give the licensee notice of and reasons for the intention and, at the same time, advise the licensee of the right to appeal. Notice

(3) Any licensee who receives a notice under subsection (2) may appeal the intended revocation or refusal to the Tribunal within fifteen days after receiving the notice. Appeal

(4) If an appeal has been filed under subsection (3), the Registrar shall not revoke the licence unless the Tribunal determines that the licence should be revoked. Delay

(5) If no appeal is filed under subsection (3), the Registrar may revoke the licence after the time for appeal has expired. Where no appeal

(6) Section 14 does not apply to an owner whose licence is revoked so long as the Registrar is satisfied that the owner is making reasonable efforts to sell the cemetery or crematorium. Exception to licensing requirement

**17.—**(1) The Director may appoint a manager to operate a cemetery or crematorium in the place of the owner if, Appointment of manager

- (a) the Director has reasonable and probable grounds, based on a statement under oath, to believe that the owner is doing or is about to do something in the operation of the cemetery or crematorium that,
  - (i) creates or is likely to create a risk to public health, safety or decency, or
  - (ii) is causing or is likely to cause financial loss to members of the public; or



(b) the owner's licence is revoked.

Powers of  
manager

(2) A manager appointed under subsection (1) has all the powers of the owner with respect to the operation of the cemetery or crematorium including the power to exclude the owner and, if the owner is a corporation, the directors or officers of the corporation, from the premises of the business.

Effect of  
appointment

(3) From the appointment of a manager under subsection (1) until the appointment is cancelled, the owner being replaced does not have the authority to deal with any assets or trust funds relating to the cemetery or crematorium and shall not be involved in the operation of the cemetery or crematorium.

Appeal

(4) Any person affected by an appointment of a manager may apply to a judge of the Supreme Court for an order cancelling the appointment and the order may include such directions and conditions as seem appropriate.

Selling  
interment  
rights

**18.—**(1) No person shall sell interment rights unless that person does so as an agent acting on behalf of a licensed owner.

Selling  
supplies, etc.

(2) No person shall act as a sales representative on behalf of an owner unless that person is licensed as a sales representative and represents an owner specified in the sales representative's licence.

Exception for  
owners

(3) Subsections (1) and (2) do not apply to preclude a person licensed as an owner from selling rights, services or supplies to be used in or provided at a cemetery or crematorium owned by that person.

Licence to  
sell

**19.—**(1) An individual may apply to the Registrar for a licence to act as a sales representative on behalf of an owner.

Requirements  
for licence

(2) An applicant is entitled to a licence except if,

- (a) the past or present conduct of the applicant affords reasonable and probable grounds for believing that the applicant will not carry on business in accordance with the law and with integrity and honesty;
- (b) the applicant, in receiving the licence, would be in a position of apparent conflict of interest;
- (c) the applicant does not have a position with a licensed owner or a commitment to be hired by a licensed owner upon receiving a licence; or

- (d) the applicant has made a false statement or provided false information in an application for a licence.

(3) A conviction for an offence that involves misrepresentation or a lack of integrity or honesty is evidence, in the absence of evidence to the contrary, that the person convicted will not carry on business in accordance with the law and with integrity and honesty within the meaning of clause (2) (a).

Past conduct

(4) An applicant's intention to work for more than one owner is evidence, in the absence of evidence to the contrary, of an apparent conflict of interest.

Conflict of interest

(5) The Registrar shall issue a licence to act as a sales representative to every applicant therefor who pays the prescribed fee, complies with the regulations and is not disentitled under subsection (2).

Issue of licence

(6) A licence is subject to such conditions as may be consented to by the licensee, imposed by the Tribunal or prescribed.

Conditions attaching to licence

(7) If the Registrar intends to refuse to issue a licence, the Registrar shall give the applicant notice of and reasons for the intention and, at the same time, advise the applicant of the right to appeal.

Notice

(8) An applicant who receives a notice under subsection (7) may appeal the intended refusal to the Tribunal within fifteen days after receiving the notice.

Appeal

(9) If no appeal is filed under subsection (8), the Registrar may refuse to issue the licence.

Refusal to issue licence

**20.—**(1) The Registrar may revoke, suspend or refuse to renew a sales representative's licence if the conduct or situation of the licensee is such as to disentitle the licensee from being granted a licence.

Revoking, suspending or refusing to renew sales licence

(2) If the Registrar intends to revoke, suspend or refuse to renew a licence, the Registrar shall give the licensee notice of and reasons for the intention and, at the same time, advise the licensee of the right to appeal.

Notice

(3) If there are grounds to suspend a licence and the Registrar considers it to be in the public interest that the licence be suspended immediately, the Registrar may, by order, suspend a sales representative's licence with the order taking effect when it is made.

Immediate suspension

- Idem (4) An immediate suspension expires fifteen days after it is appealed to the Tribunal unless, before the fifteen days expire, the Tribunal extends the suspension.
- Appeal (5) Any licensee who receives a notice under subsection (2) may appeal the intended revocation or suspension to the Tribunal within fifteen days after receiving the notice.
- Idem (6) Any licensee whose licence is suspended under subsection (3) may appeal the suspension to the Tribunal.
- Delay (7) If an appeal has been filed under subsection (5), the Registrar shall not revoke or suspend the licence unless the Tribunal determines that the licence should be revoked or suspended.
- Where no appeal (8) If no appeal is filed under subsection (5), the Registrar may revoke or suspend the licence after the time for appeal has expired.
- Application **21.**—(1) A person who is refused a licence or a renewal of a licence under this Act may apply for a licence only after one year has passed since the refusal.
- Idem (2) A person whose licence is revoked under this Act may apply for a licence only after one year has passed since the revocation.
- Continuation **22.** The licence of a licensee who has applied for a renewal of the licence continues until,
- (a) the renewal is granted; or
  - (b) if the licensee is served with a notice that the Registrar intends to refuse to renew, the time for appeal has expired or, if an appeal is required, the matter has been finally determined.

#### CONSUMER PROTECTION

- Interment rights **23.**—(1) An interment rights holder may require, by written demand, the owner to repurchase the rights at any time before they are used.
- Idem (2) Every owner who receives a demand made under subsection (1) shall repurchase the interment rights within thirty days after receiving the demand.
- Idem (3) The repurchase price of interment rights shall be determined in the prescribed manner.



(4) An interment rights holder or the personal representative of the holder has the right to inter any human remains in a lot or other facility approved under this Act in accordance with the by-laws governing the facility. Idem

(5) An interment rights holder or the personal representative of the holder may erect a commemorative marker on a lot or other receptacle for human remains if the erection of the marker is not in contravention of the by-laws governing the facility. Idem

(6) Every person has the right to reasonable access to a lot at any time except as prohibited by the by-laws governing the facility. Idem

(7) An interment rights holder and the relatives of any person whose remains are interred in a cemetery have the right to decorate the appropriate lot if the decoration is not in contravention of the by-laws governing the facility. Idem

(8) Subsection (1) does not apply to require repurchase of interment rights in a plot in which any interment rights have been exercised. Exception

**24.—**(1) A purchaser of pre-need supplies or services from an owner may cancel, by written notice to the owner, the contract to purchase at any time before the services or the supplies are provided or if the owner contravenes subsection (5). Pre-need  
services or  
supplies

(2) Subsection (1) or (5) does not apply if the supplies or services are provided within thirty days after the contract is made because of the death of the person for whom the supplies or services were contracted. Idem

(3) Subject to subsection (4), an owner who receives a notice that a contract is cancelled under this section shall refund to the purchaser all money, together with all income thereon, received under the contract within thirty days after receiving the notice. Idem

(4) An owner to whom this section applies may retain a service fee determined in the prescribed manner unless the contract is cancelled within thirty days after it is made. Idem

(5) No owner shall provide pre-need supplies or services under a contract within the thirty-day period immediately following the day the contract is made. Prohibition



Application

(6) This section applies to contracts for pre-need supplies or services whether the contracts were made before or after this section comes into force.

Contract requirements

**25.—**(1) A contract for the purchase of interment rights or cemetery supplies or services is not enforceable by an owner unless,

- (a) it is written, signed by both parties and complies with the regulations;
- (b) it sets out the purchaser's cancellation rights under this Act and whether or not cemetery supplies or services are to be provided before the death of the person for whom they are contracted;
- (c) the owner complies with subsections (2) and (3); and
- (d) the owner delivers a signed copy of the contract to the purchaser at the time the contract is made.

Idem

(2) An owner who sells interment rights must deliver to the purchaser at the time the contract is made a copy of the by-laws of the cemetery and a certificate of interment rights.

Idem

(3) An owner who sells pre-need supplies or services must set out in the contract exactly what the supplies or services are and the price charged for them.

Refund with interest

(4) An owner who receives money under a contract that is not enforceable because of the application of this section shall refund to the purchaser, immediately upon written demand, with interest at the prescribed rate, all money received.

Idem

(5) Subsection (4) applies even though the owner has paid the money into a trust fund that is not accessible to the owner.

Exception

(6) Subsection (4) does not apply, in the case of interment rights, after the rights are used or, in the case of cemetery supplies or services, after the supplies or services are provided.

Public information

**26.** Every owner shall make such information as is prescribed available to the public in the manner and form prescribed.

Price list

**27.—**(1) Every owner shall file with the Registrar a price list of all interment rights and cemetery services and supplies

that may be sold and all charges that may be made by that owner.

(2) No owner shall charge or collect or receive money for interment rights or cemetery supplies or services that is more than the price for the rights, supplies or services filed by the owner with the Registrar and not disallowed. Idem

(3) The Registrar, upon receiving a price list, may disallow, within thirty days after the list is filed, any price that, in the opinion of the Registrar, is excessive or significantly higher than current market price for the supplies, services or rights within the applicable area. Approval of list

(4) The Registrar shall give immediate written notice to the owner who filed the price list of any price on the list that is disallowed and, in the notice, shall give the reasons for the disallowance. Notice of disallowance

(5) If the Registrar disallows a price on a price list, the owner who filed the list may appeal the disallowance to the Tribunal. Appeal

(6) An owner who has charged any person a price that is disallowed by the Registrar shall pay, forthwith, to that person the difference between the price charged and the price allowed. Repayment

**28.—**(1) If the Registrar believes, on reasonable and probable grounds, that any person licensed under this Act has made a false or misleading public representation or a representation that is in contravention of this Act or the regulations, the Registrar shall order that person to stop making the representation and, in the order, shall set out the reasons for the order. Advertising

(2) A person who receives an order under subsection (1) shall immediately comply with the order and shall refrain from making the representation, in any form, in the future. Compliance with order

(3) Any person who receives an order under subsection (1) may appeal the order to the Tribunal. Appeal

(4) The Tribunal may issue a stay of any order made by the Registrar under subsection (1). Stay of order

**29.—**(1) No person shall contact, in any way, a person in a hospital, nursing home or such other institution as is prescribed for the purpose of suggesting that a contract for the Soliciting prohibited

purchase of interment rights or cemetery supplies or services be made.

Idem

(2) No person shall contact, by telephone or in person, a person for the purpose of suggesting that a contract for the purchase of interment rights or cemetery supplies or services be made.

Exception

(3) This section does not prohibit any contact made at the request of the person being contacted.

Regulations

(4) The Lieutenant Governor in Council may make regulations defining "contract" for the purpose of this section.

Abandoned  
interment  
rights

**30.**—(1) A cemetery owner may apply to the Registrar for a declaration that interment rights are abandoned.

Idem

(2) An application may be made under subsection (1) only in respect of interment rights that had been sold at least twenty years before the application and have not been used.

Inquiry

(3) The Registrar, on receiving an application under subsection (1), shall make such inquiry and direct the applicant to give such notices as seem reasonable in the circumstances.

Declaration

(4) Upon being satisfied that the rights are abandoned, the Registrar shall issue a declaration to that effect.

Notice

(5) The Registrar shall give notice of the declaration or the decision to not make the declaration to the applicant and to every person who has indicated to the Registrar an interest in the matter.

Appeal

(6) Any person who has an interest in the matter may appeal the decision of the Registrar to the Tribunal within thirty days after notice of the decision is given under subsection (5).

Right to sell  
abandoned  
rights

**31.** A cemetery owner may resell interment rights that have been declared abandoned,

(a) if there is no appeal, at the end of the time for appeal; or

(b) if there is an appeal, when the appeal has been finally determined supporting the declaration.

Rights  
holder's  
protection

**32.**—(1) Any person whose interment rights have been resold after being declared abandoned may apply to the Registrar for redress.



(2) The Registrar, upon receiving an application under subsection (1), shall order the cemetery owner or the owner's successor, as the case may be, to provide, subject to subsection (6), better or equivalent interment rights in that cemetery or to refund an amount determined as prescribed. Idem

(3) Any person whose interment rights have been declared abandoned but have not been resold may apply to the Registrar to have those rights restored. Idem

(4) The Registrar, upon receiving an application under subsection (3), shall order that the declaration be cancelled and that the rights be restored to the person entitled thereto. Idem

(5) This section does not apply in respect of interment rights in cemeteries that are abandoned. Exception

(6) If the cemetery referred to in subsection (2) is one in which interment rights are not available but the owner owns a cemetery in which interment rights are available, the applicant shall be given the option of accepting better or equivalent interment rights in that cemetery. Idem

**33.—**(1) If a marker has been erected on a lot that is the subject-matter of a declaration of abandonment, the cemetery owner shall remove and store it at the owner's expense for at least twenty years. Markers

(2) If an order is made under subsection 32 (2) to provide alternate interment rights, the cemetery owner shall re-erect the marker at the new site at the owner's expense. Idem

(3) If subsection (2) does not apply, the cemetery owner may dispose of the marker at the expiration of the twenty-year period. Idem

**34.—**(1) A cemetery owner who has available space shall provide, upon receiving a written instruction from a welfare administrator, Assisted burials, cemetery

- (a) a lot for the interment of the remains of any person referred to in the instruction;
- (b) opening and closing services in conjunction with the interment; and
- (c) such other related services as are prescribed.

(2) A crematorium owner shall provide, upon receiving a written instruction from a welfare administrator, Crematorium



(a) a crematorium service for the remains of any person referred to in the instruction; and

(b) such other related services as are prescribed.

Exception

(3) Subsections (1) and (2) do not apply to require a religious organization to inter or cremate the remains of a person who is disentitled to burial or cremation in a cemetery or crematorium owned by that organization.

Payment

(4) An owner who provides a service under this section is entitled to be paid the prescribed amount for the service by the welfare administrator.

Welfare administrator

(5) The Lieutenant Governor in Council may make regulations defining "welfare administrator" for the purpose of this section and designating persons by title or job description who are considered welfare administrators for this purpose.

#### TRUST FUNDS

Care and maintenance trust funds  
1987, c. 33

**35.**—(1) Every cemetery owner who sells, assigns or transfers interment rights shall establish with a corporation registered under the *Loan and Trust Corporations Act, 1987*, with that corporation as trustee, a trust fund designated the "Care and Maintenance Fund" for the purpose of providing money for the care and maintenance of the cemetery.

Payments into fund

(2) An owner who is required to establish a fund under this section shall pay into the fund prescribed amounts within the prescribed times.

Payments out of fund

(3) A trustee of a fund established under this section shall pay the income from the fund, after deducting therefrom the trustee's fees, to the owner of the cemetery involved.

Use of money

(4) An owner receiving money pursuant to subsection (3) shall use the money for the upkeep of the cemetery and the markers and structures therein in the prescribed manner.

Capital portion

(5) No trustee of a fund established under this section shall pay out any of the capital portion of the fund.

Idem

(6) Subsection (5) does not apply to preclude a trustee from transferring the fund, with the consent of the Registrar, to another trustee.

Municipal owners

(7) Despite subsection (1), an owner that is a municipality may act as the trustee of a Care and Maintenance Fund established by that municipality.

**36.**—(1) Every owner who sells pre-need cemetery supplies or services shall establish with a corporation registered under the *Loan and Trust Corporations Act, 1987*, with that corporation as trustee, a trust fund designated as the “Pre-need Assurance Fund”.

Pre-need  
assurance  
trust funds  
1987, c. 33

(2) Subsection (1) applies to an owner in respect of sales made by a person that the owner is associated or affiliated with in a manner that is prescribed.

Idem

(3) An owner who is required to establish a fund under this section shall pay into the fund all money received for pre-need supplies or services within the prescribed times.

Payments  
into fund

(4) A trustee of a fund established under this section shall hold all money received for the benefit of the purchaser until that portion of the contract in respect of which the money was paid is completed.

Trust funds

(5) When a portion of a contract is completed, the trustee shall pay to the owner the lesser of,

Idem

(a) the current market price filed with the Registrar for the supplies or services; or

(b) an amount equal to the payments made for the supplies or services together with income accrued on those payments.

(6) If the amount referred to in clause (5) (b) exceeds the price referred to in clause (5) (a), the trustee shall pay the amount of the excess to the owner.

Idem

(7) If a contract in respect of which money is held in the trust fund is cancelled, the trustee shall pay, to the owner, the amount of the initial payments together with income accrued on that amount.

Prior  
cancellation

(8) Subject to subsection 24 (4) (retention of service fee), an owner who receives a payment under subsection (7) shall pay the amount to the purchaser involved within twenty days after receiving the payment.

Payment to  
purchaser

(9) An owner who receives a payment under subsection (6) shall pay the amount to the purchaser or, if an interment has taken place, to the estate of the person interred within twenty days after receiving the payment.

Idem

Municipal  
owners

(10) Despite subsection (1), an owner that is a municipality may act as the trustee of a Pre-need Assurance Fund established by that municipality.

Restrictions  
on trust  
agreements  
R.S.O. 1980,  
c. 512

**37.** No investment of money in a trust established pursuant to this Act shall be made except as permitted under the *Trustee Act*.

Marker  
installation

**38.**—(1) Every person installing a marker in a cemetery shall pay to the cemetery owner the prescribed amount.

Payment into  
fund

(2) An owner receiving money pursuant to subsection (1) shall pay the money into the Care and Maintenance Fund established for that cemetery.

Idem

(3) An owner who does not receive payment under subsection (1) for a marker shall pay into the Care and Maintenance Fund a prescribed amount.

Trust funds  
held by  
owner

**39.**—(1) All money received by an owner that is required to be paid into a trust fund but that is not immediately turned over to a trustee of a trust fund shall be deposited by the owner in a trust account with a credit union or caisse populaire registered under the *Credit Unions and Caisses Populaires Act*, a chartered bank of Canada, the Province of Ontario Savings Office or a trust or loan corporation registered under the *Loan and Trust Corporations Act, 1987*.

R.S.O. 1980,  
c. 102

1987, c. 33

Idem

(2) Money deposited by an owner in a trust account under subsection (1) shall be placed by the owner into a trust fund or otherwise paid out in accordance with this Act or the regulations within the time prescribed.

Providing  
information,  
etc.

**40.**—(1) The Registrar or the Public Trustee may require any owner or trustee to provide,

- (a) any information on trust accounts or trust funds that the owner or trustee is involved with; and
- (b) audited financial statements on any trust account or trust fund relating to a cemetery or crematorium that the owner or trustee is involved with.

Idem

(2) Every owner or trustee who receives a request pursuant to subsection (1) shall forthwith provide all the information or statement required or an explanation as to why it is not possible to provide the information or statement.

Surrogate  
Court

**41.**—(1) The Registrar or the Public Trustee may apply to the Surrogate Court to pass the accounts of any trust fund.



(2) The court, on passing any account, may review and pass upon any agreement made by an owner of a cemetery or crematorium. Idem

(3) The court, on passing any account, may make any order that it considers necessary to ensure that the trust is carried out. Idem

**42.** No cemetery or crematorium owner shall charge or receive any compensation or payment for the effort or expense of establishing or maintaining a trust fund. No compensation to owner

**43.—(1)** Despite subsections 35 (1) and 36 (1), an owner who does not have a practical alternative may require the Public Trustee to act as a trustee for that owner's Care and Maintenance Fund or Pre-need Assurance Fund. Use of Public Trustee

(2) The Registrar and the Public Trustee have an interest in all trust funds. Interested parties

#### CEMETERY AND CREMATORIUM OPERATIONS

**44.—(1)** Every cemetery owner shall maintain, without charge to interment rights holders, the grounds of the cemetery, including all lots, structures and markers, to ensure the safety of the public and to preserve the dignity of the cemetery. Maintenance by cemetery owner

(2) Despite subsection (1), an owner of a non-commercial cemetery may charge interment rights holders, at a rate approved by the Registrar, for the maintenance of lots and markers that were sold before 1955 if there were no trust funds collected for that purpose. Exception

**45.** No owner shall carry on business, in a manner prescribed, in conjunction with a person licensed to operate a funeral establishment or transfer service. Operating with funeral establishment, etc.

**46.** Every cemetery owner shall ensure that all interments in the cemetery are carried out in a decent and orderly manner and that quiet and good order are maintained in the cemetery at all times. Good order

**47.** No person shall inter human remains except in a cemetery that has been consented to by the Registrar and is owned by an owner licensed under this Act. Interment in cemetery only

**48.** If a marker in a cemetery presents a risk to public safety because it is unstable, the owner of the cemetery shall Repairing markers



do whatever is necessary by way of repairing, resetting or laying down the marker so as to remove the risk.

Mortgage on  
cemetery

**49.**—(1) No encumbrance or charge on a cemetery or crematorium is enforceable unless it was given as security for money borrowed for,

- (a) the purpose of improving the facilities provided;
- (b) the purpose of acquiring land for a cemetery or crematorium; or
- (c) a purpose, approved by the Registrar, relating to the operation of the cemetery or crematorium.

Restriction

(2) No encumbrancer claiming an interest in a cemetery or crematorium may deal with the cemetery or crematorium except in accordance with this Act.

By-laws

**50.**—(1) No person shall operate a cemetery or crematorium except in accordance with the by-laws applying to that cemetery or crematorium.

Owner's  
by-laws

(2) An owner of a cemetery or crematorium may make by-laws affecting the operation of the cemetery or crematorium.

When  
effective

(3) No by-law made by an owner is effective until it is filed with and approved by the Registrar.

Prescribed  
by-laws

(4) The Lieutenant Governor in Council may make regulations prescribing by-laws that apply to cemeteries or crematoria or to any prescribed classes of cemeteries or crematoria.

Notice of  
by-laws

(5) An owner filing a by-law shall give such notice as is prescribed to such classes of persons as are prescribed.

Approval by  
Registrar

(6) A by-law filed with the Registrar under this section shall be approved by the Registrar unless the approval is not in the public interest or the effect of the by-law is to give the owner an unreasonable or unfair competitive advantage over another supplier of cemetery services or supplies.

Revocation  
of by-laws

(7) The Registrar may revoke any by-law that the Registrar could have refused to approve under subsection (6).

Idem

(8) Subsection (7) applies even though the Registrar has previously approved the by-law.

Notice of  
disallowance  
or revocation

(9) If the Registrar intends to refuse to approve or revoke a by-law, the Registrar shall give the owner notice of the inten-

tion and, at the same time, advise the owner of the right to appeal.

(10) An owner who receives a notice under subsection (9) may appeal the intended refusal or revocation to the Tribunal within fifteen days after receiving the notice. Appeal

(11) If an appeal is filed against an intended revocation, the Registrar shall not revoke the by-law unless the Tribunal determines that the by-law should be revoked. Delay in revocation

(12) If no appeal is filed against an intended revocation, the Registrar may revoke the by-law after the time for appeal has expired. Where no appeal

**51.**—(1) Subject to subsection (2), no person shall disinter any human remains without, Disinterment

(a) the prior consent of the interment rights holder; and

(b) notifying the proper medical officer of health.

(2) Subsection (1) does not apply to a disinterment ordered by, Where consent not required

(a) a court of competent jurisdiction;

(b) a coroner appointed under the *Coroners Act*;

R.S.O. 1980,  
c. 93

(c) the Attorney General or Solicitor General for Ontario; or

(d) the Registrar under section 9. 

(3) For the purpose of clause (1) (a), the consent of the Registrar may be substituted for that of the interment rights holder if, Idem

(a) the whereabouts of an interment rights holder are not known;

(b) the interment rights holder is not readily ascertainable; or

(c) the interment rights holder is not able to consent.

(4) No person shall disinter human remains except in accordance with the regulations. Compliance with regulations

Exception (5) Clause (1) (b) does not apply to the disinterment of cremated human remains.

Consent of Registrar **52.**—(1) The Registrar, before consenting to a disinterment, shall consider whether any known person may have an interest in the disposition of the remains and, if there may be such a person, shall order that notice of the intention to disinter be given.

Notice of intention (2) A notice of intention to disinter shall be given in the manner and form set out in the order.

Objections (3) Any person objecting to a disinterment may file a written objection with the Registrar at any time before the consent of the Registrar is given.

Idem (4) If any person files an objection to a disinterment, the Registrar shall determine whether that person has an interest in the remains and, if so, shall ascertain the person's wishes.

Conditions for consent (5) In giving a consent to a disinterment, the Registrar shall take into account the wishes of any person with an interest in the remains and make the consent subject to such conditions as the Registrar considers appropriate.

Notice of decision (6) Notice of the Registrar's decision shall be given to the person who applied for the consent, to any person to whom notice is given under subsection (1) and to any person filing an objection.

Appeal (7) A person receiving a notice under subsection (6) may appeal, to the Tribunal, the Registrar's decision within fifteen days after receiving the notice.

Delay (8) If an appeal is filed under subsection (7), the Registrar shall not consent to the disinterment unless the Tribunal determines that the disinterment should proceed.

Where no appeal (9) If no appeal is filed under subsection (6), the Registrar may consent to the disinterment after the time for appeal has expired.

Attendance by medical officer **53.**—(1) A medical officer of health has the authority to attend at, supervise and direct a disinterment.

Diseases (2) If a medical officer of health determines that remains are those of a person who died of a communicable disease within the meaning of the *Health Protection and Promotion Act, 1983*, the remains shall not be dealt with in any way except as prescribed by the regulations made under that Act



**54.** No person shall remove human remains from a cemetery unless a certificate of a medical officer of health or the cemetery owner confirming that this Act and the regulations have been complied with is affixed to the container.

Certificate  
required

**55.** A burial certificate under the *Vital Statistics Act* is not required to reinter human remains that have been disinterred in accordance with this Act and the regulations.

R.S.O. 1980,  
c. 524,  
does not  
apply

**56.—(1)** No person shall cremate human remains except in a crematorium that has been established with the consent of the Registrar and is owned by an owner licensed under this Act.

Cremation

(2) No person shall cremate human remains,

Prohibitions

(a) for which there is not a coroner's certificate supplied by the Ministry of Consumer and Commercial Relations;

(b) in a container made of, or containing, non-flammable or hazardous material or a prescribed material; or

(c) in which a pacemaker or other prescribed device is implanted.

(3) Except if required by a welfare administrator or for the purpose of compliance with this Act or the regulations made under this Act, a crematorium owner has the right to refuse to cremate any human remains.

Right to  
refuse

**57.** Every crematorium owner shall ensure that all cremations in the crematorium are carried out in a decent and orderly manner and that quiet and good order are maintained in the crematorium at all times.

Good order

**58.—(1)** Any person who purchases a cremation service shall deposit, at the request of the crematorium owner, a prescribed amount with the owner to cover the cost of interring the cremated remains.

Deposit re  
disposal

(2) An owner receiving money under subsection (1) shall hold the money in trust.

Held in trust

(3) If the cremated remains are claimed by the interment rights holder within one year after the cremation, the owner shall refund the money to the person entitled thereto at the time of the claim.

Refund



Owner's  
compensation

(4) If, after one year, the cremated remains have not been claimed and the owner has made reasonable efforts to contact the representatives of the deceased, the owner may inter them and is then entitled to the money held in trust as compensation.

Neglected  
cemetery

**59.**—(1) A municipality may order a cemetery owner who does not keep the cemetery in good order and repair to restore it to good order and repair.

Appeal

(2) An owner may appeal, to the Registrar, an order to restore within fifteen days after receiving the order.

Idem

(3) The Registrar, on receiving an appeal, shall invite submissions from the owner and the municipality and shall make such other inquiries as are appropriate in the circumstances.

Idem

(4) After considering submissions made and the circumstances, the Registrar shall confirm or reverse the order of the municipality or substitute his or her order for that of the municipality.

R.S.O. 1980,  
c. 484  
does not  
apply

(5) The *Statutory Powers Procedure Act* does not apply to an appeal under this section.

Repairs

(6) If an owner does not restore a cemetery as specified in an order given under subsection (1) within such reasonable time as is set out in the order, the municipality may have the required work done and recover the costs thereof from the owner.

Abandoned  
cemetaries

**60.**—(1) An application to declare a cemetery abandoned may be made to a judge of the District Court if the owner of the cemetery,

- (a) cannot be found or is unknown;
- (b) is unable to maintain it;
- (c) was a corporation that was dissolved; or
- (d) is not licensed as an owner under this Act.

Application

(2) An application to declare a cemetery abandoned may be made by the owner of the cemetery, the municipality or the Registrar.

Notice of  
application

(3) An applicant under subsection (2) must give notice of the application to the other persons referred to in subsection (2).

(4) The municipality is responsible for the cost of an application under this section including the cost of a survey of the land involved. Costs

↓  
(5) Despite subsection (4), an owner who makes an unsuccessful application is responsible for the costs referred to in subsection (4). Idem  
▲

(6) A judge to whom an application is made under subsection (1), upon being satisfied that there is a basis for the application, shall, by order, declare the cemetery that is the subject-matter of the application to be abandoned. Declaration

(7) Upon a declaration that a cemetery is abandoned being registered in the appropriate land registry office, the municipality becomes the owner of the cemetery with all the rights and obligations in respect to the cemetery and the assets, funds and trust accounts related thereto that the previous owner had. Municipality becomes owner

(8) A declaration under this section may exempt the municipality being declared the owner from any provision of this Act or the regulations that it would be inappropriate, in the circumstances, for a new owner to be subject to. Exemptions

(9) Upon an application being made to declare a cemetery abandoned, the municipality within which the cemetery is situated is responsible for the maintenance of the cemetery until the application is disposed of. Maintenance

**61.** The Registrar may require any owner who has an interest in a cemetery that appears to be abandoned or neglected to maintain that cemetery as a condition of retaining a licence to own a cemetery or crematorium. Dual interest

#### ADMINISTRATION

**62.—**(1) There shall be a Registrar appointed for the purposes of this Act. Registrar

(2) There shall be one or more Deputy Registrars appointed who may exercise such powers and perform such duties of the Registrar as are delegated by the Registrar. Deputy Registrars

(3) The Registrar, Deputy Registrars and all other employees necessary for the administration of this Act shall be appointed under the *Public Service Act*. Application of R.S.O. 1980, c. 418

## Inspectors

**63.**—(1) The Registrar may appoint inspectors to carry out inspections for the purpose of determining whether there is compliance with this Act and the regulations.

## Certificate of appointment

(2) An inspector exercising a power under this Act shall, on request, produce his or her certificate of appointment.

## Inspections

**64.**—(1) For the purpose of ensuring compliance with this Act and the regulations, an inspector may,

- (a) enter any place at any reasonable time;
- (b) request the production for inspection of documents or things that may be relevant to the inspection;
- (c) inspect and, upon giving a receipt therefor, remove documents or things relevant to the inspection for the purpose of making copies or extracts;
- (d) inquire into negotiations, transactions, loans or borrowings of a licensee and into assets owned, acquired or disposed of by a licensee that are relevant to an inspection;
- (e) conduct such tests as are reasonably necessary to determine the integrity of a structure, fence or marker in a cemetery; and
- (f) remove materials or substances for examination or test purposes subject to the licensee or other occupant of the premises being notified thereof.

## Entry to dwellings

(2) Subsection (1) does not apply to confer a power of entry to a room actually used as a dwelling without the consent of the occupier.

## Warrant

(3) A justice of the peace may issue a warrant authorizing the person named in the warrant,

- (a) to do anything set out in clause (1) (a), (c), (e) or (f);
- (b) to enter and search a room actually used as a dwelling; or
- (c) to search for and seize any document or thing relevant to the inspection.



(4) A warrant may be issued under subsection (3) if the justice of the peace is satisfied on information under oath that in the case of a warrant to be issued under,

Requirements  
for warrant  
to issue

(a) clause (3) (a), an inspector has been prevented from doing anything permitted under clause (1) (a), (c), (e) or (f) or there is reasonable ground to believe that an inspector may be prevented from doing any of those things;

(b) clause (3) (b), it is necessary that a room actually used as a dwelling be entered for the purposes of carrying out an inspection or there is, in such a room, a document or thing that there is reasonable ground to believe is relevant to an inspection under this Act; or

(c) clause (3) (c), it is necessary to search for and seize a document or thing that there is reasonable ground to believe will afford evidence relevant to a contravention of this Act or the regulations.

(5) A warrant issued under this section shall specify the hours and days during which it may be executed.

Execution of  
warrant

(6) Unless renewed, a warrant under this section expires not later than thirty days after the date on which it is made.

Expiry

(7) A warrant under this section may be issued or renewed upon application without notice.

Notice not  
required

(8) A warrant under this section may be renewed for any reason for which it may be issued.

Renewal of  
warrant

(9) A person doing anything under the authority of a warrant issued under this section is authorized to call on such police officers to assist and to use such force as is necessary in the execution of the warrant.

Assistance

(10) An inspector carrying out an inspection, with or without a warrant, may be accompanied by such persons with expertise in the subject-matter of the inspection as the inspector considers necessary.

Use of  
experts

(11) An investigator taking material in order to copy it shall make the copy with reasonable dispatch and shall promptly return the material taken.

Copies

(12) Copies of, or extracts from, documents and things removed under this section and certified as being true copies

Admissibility  
of copies



of, or extracts from, the originals by the person who made them are admissible in evidence to the same extent as, and have the same evidentiary value as, the documents or things of which they are copies or extracts.

Obstruction  
of inspector

**65.**—(1) No person shall obstruct an inspector in carrying out an inspection under this Act or withhold, destroy, conceal or refuse to provide any relevant information or thing required for the purpose of the inspection.

Facilitating  
inspection

(2) It is a condition of each licence issued under this Act that the licensee facilitate an inspection relevant to that licence.

Freezing  
assets

**66.**—(1) If the Director has reasonable and probable grounds to believe that the owner of a cemetery or crematorium is doing or is about to do something that will jeopardize the public interest or the proper care and maintenance of a cemetery, the Director may direct any person holding, having on deposit or controlling assets of the owner or trust funds under the control of the owner to hold the assets or trust funds until further instructions are received from the Director to release a particular asset or trust fund from the direction.

Scope of  
direction

(2) In the case of a bank or a corporation, a direction under subsection (1) applies only to the offices, branches or agencies thereof named in the direction.

Application  
for directions

(3) Any person named in a direction issued under subsection (1), if in doubt as to the application of the direction to particular assets or trust funds, may apply to the Director for an order of clarification.

Revocation  
or  
amendment  
of direction

(4) On an application of the owner or any other person having an interest therein, the Director may make an order on such conditions as are set out in the order revoking the direction or consenting to the release of a particular asset or trust fund from the direction.

Appeal

(5) Any person affected by a direction or order of the Director made under this section or a refusal to make an order may appeal to the Tribunal.

Restraining  
order

**67.**—(1) If the Director is of the opinion that any person is not complying with this Act or the regulations, despite the imposition of any penalty in respect of the non-compliance and in addition to any other remedy available, the Director may apply to a judge of the High Court for an order directing the person to comply.

(2) Upon an application under subsection (1), the judge <sup>Idem</sup> may make the order applied for or such other order as the judge thinks appropriate.

(3) An appeal lies to the Divisional Court from an order <sup>Idem</sup> made under subsection (2).

#### BURIAL SITES

**68.** No person shall disturb or order the disturbance of a <sup>Disturbing burial site prohibited</sup> burial site or artifacts associated with the human remains except,

(a) on instruction by the coroner; or

(b) pursuant to a site disposition agreement.

**69.** Any person discovering or having knowledge of a <sup>Unmarked burial sites</sup> burial site shall immediately notify the police or coroner.

**70.—**(1) The Registrar may order the owner of land on <sup>Investigation</sup> which a burial site is discovered to cause an investigation to be made to determine the origin of the site.

(2) Section 68 does not apply to a person investigating the <sup>Idem</sup> nature or origin of the site who is disturbing the site in the course of the investigation.

(3) A person conducting an investigation shall do so with <sup>Idem</sup> the minimum disturbance to the site that is reasonable in the circumstances.

(4) If the Registrar is of the opinion that an investigation <sup>Idem</sup> under subsection (1) would impose an undue financial burden on the land owner, the Registrar shall undertake the investigation.

**71.—**(1) As soon as the origin of a burial site is deter- <sup>Declaration</sup> mined, the Registrar shall declare the site to be,

(a) an unapproved aboriginal peoples cemetery;

(b) an unapproved cemetery; or

(c) an irregular burial site.

(2) For the purpose of subsection (1),

<sup>Interpretation</sup>

- (a) an irregular burial site is a burial site that was not set aside with the apparent intention of interring therein human remains;
- (b) an unapproved cemetery is land set aside with the apparent intention of interring therein, in accordance with cultural affinities, human remains and containing remains identified as those of persons who were not one of the aboriginal peoples of Canada;
- (c) an unapproved aboriginal peoples cemetery is land set aside with the apparent intention of interring therein, in accordance with cultural affinities, human remains and containing remains identified as those of persons who were one of the aboriginal peoples of Canada;

Definition

(3) For the purposes of this section and section 72, “unapproved” means not approved in accordance with this Act or a predecessor of this Act.

Site  
disposition  
agreement

**72.**—(1) The Registrar, on declaring a burial site to be an unapproved aboriginal peoples cemetery or an unapproved cemetery, shall serve notice of the declaration on such persons or class of persons as are prescribed.

Idem

(2) All persons served with notice under subsection (1) shall enter into negotiations with a view of entering into a site disposition agreement.

Idem

(3) If a site disposition agreement is not made within the prescribed time, the Registrar shall refer the matter to arbitration.

Idem

(4) Despite subsection (3), the Registrar, if of the opinion that an agreement may be reached, may defer referring the matter to arbitration so long as there appears to be a reasonable prospect of an agreement being reached.

Arbitrated  
settlement

**73.** The persons named in an arbitrated settlement who have been given the opportunity to fully participate in the arbitration process are bound by the settlement whether they chose to participate or not.

Irregular  
burial site

**74.**—(1) An owner of land that contains an irregular burial site shall ensure that the remains found in the site are interred in a cemetery.



(2) No owner of a cemetery interring human remains for an owner of land to whom this section applies may charge more than the prescribed amount for the interment. Charges

**75.**—(1) No person shall alter or move the remains or marker of a Canadian or Allied veteran or a Commonwealth War Burial without the agreement of the Department of Veterans Affairs (Federal), the Commonwealth War Graves Commission or such other persons and associations as are prescribed. War Graves

↓  
(2) Subsection (1) applies with respect to the alteration or removal of the remains or a marker of a Canadian or Allied veteran only if the Department of Veterans Affairs (Federal) contributed to the cost of the interment. Idem

(3) If an agreement is not reached, the person who wants to make the alteration or move may apply to the Registrar for directions. Idem

(4) When an application is made under subsection (3), the Registrar shall instruct the applicant to give notice of the application to such persons and associations as the Registrar considers may have an interest in the matter. Idem

(5) All persons and associations receiving a notice under subsection (4) may make submissions on the matter to the Registrar in such form and manner as the Registrar instructs. Idem

(6) After considering all submissions made, the Registrar shall direct the applicant on the manner of dealing with the remains or marker in question. Idem

(7) Subsection (1) does not apply to a person altering or moving remains or markers in accordance with the direction of the Registrar. Idem

**76.**—(1) The Lieutenant Governor in Council may make regulations, Regulations

1. prescribing documents, information and notices to be provided in the course of an application;
2. prescribing fees and requiring the payment of fees;
3. providing for the manner in which a deposit required for approval shall be applied or returned;
4. prescribing classes of cemeteries;



5. prescribing, for any notice required to be given under this Act, the type of notice and the manner in which it is to be given;
6. prescribing requirements and standards for the placing and spacing of interments, markers, fixtures, fences or other structures in a cemetery;
7. prescribing the minimum depth of coverage for in-ground burials;
8. prescribing the drains, sewers and other structures for the flow of water required in a cemetery;
9. governing mausolea, columbaria and other structures on or in a cemetery and establishing construction standards;
10. prescribing classes and types of licences;
11. governing the issue of licences and providing for the renewal of licences;
12. governing the term during which each class or type of licence is valid;
13. prescribing conditions that attach to any class or type of licence;
14. providing for posting of bonds and prescribing the amounts thereof;
15. providing for the forfeiture of posted bonds and for the distribution of the proceeds of forfeited bonds;
16. prescribing practices or actions that are evidence of incompetence or lack of honesty and integrity;
17. requiring the approval of the Registrar for promotional and sales material and prescribing the criteria for approval;
18. prescribing the type of promotional and sales material that requires the approval of the Registrar and providing for its submission to the Registrar;
19. governing and prohibiting the use of any promotional or sales material or any practice;

20. prescribing records and information to be kept by licensees;
21. providing for and requiring the submission of records and information and providing for access by agents of the Registrar to records and information;
22. prescribing the form of and conditions to be included in contracts for the sale of interment rights and cemetery supplies and services;
23. prescribing the information to be supplied to purchasers of interment rights and cemetery supplies and services;
24. prescribing the form of and information to be included in certificates of interment rights;
25. prescribing information to be provided to the public, any person or any class of persons and prescribing the manner of providing that information;
26. governing advertising and the manner of soliciting business;
27. requiring the use of any prescribed forms;
28. governing the use of contracts and certificates;
29. governing the uses to which owners may apply income from Care and Maintenance Funds;
30. prescribing records and information on trust funds to be provided to purchasers of interment rights and pre-need supplies or services;
31. governing the establishment, maintenance and operation of trust funds including the Care and Maintenance Fund and the Pre-need Assurance Fund;
32. governing the payment of money into and out of trust funds including the time within which and the circumstance under which payments are to be made;
33. prescribing fees that may be retained by trustees in respect of any type of trust fund;
34. governing the interment, disinterment, disposition and removal of human remains;

35. governing the preparation of disinterred human remains for transportation including prescribing the design and material of container to be used;
36. prescribing standards for the construction, installation, stabilization and preservation of markers and other cemetery supplies and requiring compliance with the standards;
37. governing the standards of care and maintenance required for a cemetery;
38. governing the procedure for approving by-laws made by owners and for revoking any by-laws made by owners;
39. prescribing the criteria that the Registrar shall use in approving by-laws;
40. governing the manner of conducting cremations and dealing with cremated remains;
41. prescribing amounts to be deposited, in trust, to compensate for disposing of cremated remains and regulating the handling of the trust moneys;
42. governing the location and ownership of cemeteries and crematoria;
43. governing prices and the range of prices that may be included on price lists filed with the Registrar by owners;
44. prescribing procedures to be followed in dealing with burial sites and requiring that they be followed;
45. governing arbitration in the absence of a site disposition agreement and requiring compliance with prescribed procedure;
46. prescribing the subject-matters to be contained in a site disposition agreement or arbitration settlement and requiring their inclusion;
47. exempting any person or class of persons, any cemetery or class of cemetery or anything or class of thing from any provision of this Act or the regulations;

- 48. prescribing conditions subsequent or precedent for a prescribed exemption and providing that an exemption may be subject to the Registrar being satisfied that it is not contrary to the public interest;
- 49. prescribing what constitutes notice in any provision where notice is required to be given;
- 50. governing the time for giving any notice for which a time is not set out in this Act and delegating to the Registrar power to extend any prescribed time;
- 51. prescribing anything that is referred to in this Act as being prescribed.

(2) Any regulation may be general or specific or of limited application. Limitation

**77.** No person shall cause or commit a nuisance in a cemetery or wilfully and unlawfully disturb persons assembled for the purpose of interring human remains in a cemetery. Interfering with cemetery

**78.—(1)** Any person who, in a cemetery, damages or moves any tree, plant, marker, fence, structure or other thing usually erected, planted or placed in a cemetery is liable to the cemetery owner and any interment rights holder who, as a result, incurs damage. Cause of action

(2) In an action under subsection (1), the amount of damages shall be the amount required to restore the cemetery to the state that it was in before anything was damaged or moved by the person liable. Idem

(3) Any person collecting damages under this section shall use the full amount collected to restore the cemetery. Idem

**79.—(1)** Every person who, Offence

- (a) furnishes false, misleading or incomplete information in an application under this Act or in a statement or return required to be furnished under this Act or the regulations;
- (b) fails to comply with an order made under this Act; or
- (c) contravenes any provision of this Act or the regulations,

is guilty of an offence.



Idem (2) Every director or officer of a corporation who concurs in an offence under this Act is guilty of an offence.

Idem (3) An individual who is convicted of an offence under this Act is liable to a fine of not more than \$20,000 and, on a subsequent conviction, to a fine of not more than \$20,000 and to imprisonment for a term of not more than one year.

Idem (4) A corporation that is convicted of an offence under this Act is liable to a fine of not more than \$40,000.

Limitation (5) Subject to subsection (6), no proceeding under this section shall be commenced more than two years after the offence was committed.

Idem (6) No proceeding under clause (1) (a) or subsection 35 (2) or 36 (3) or section 68 shall be commenced more than one year after the facts upon which the proceeding is based first came to the knowledge of the Registrar.

Restitution (7) If a person is convicted of an offence under this Act, the court making the conviction may, in addition to any other penalty, order the person convicted to make compensation or restitution in relation thereto.

Certificate as evidence

**80.** A statement as to,

- (a) the consent or lack of consent to establish, alter or increase the capacity of a cemetery or crematorium;
- (b) the licensing or non-licensing of any person;
- (c) the filing or non-filing of any document or material required or permitted to be filed with the Registrar;
- (d) the time when the facts upon which proceedings are based first came to the knowledge of the Registrar; or
- (e) any other matter pertaining to licensing, non-licensing, filing or non-filing,

purporting to be certified by the Registrar is, without proof of the office or signature of the Registrar, admissible in evidence in any proceeding, in the absence of evidence to the contrary, of the facts stated therein.

Municipal powers

**81.—**(1) A municipality may expropriate,

(a) a cemetery or part thereof, whether the cemetery exists within or outside the municipality; and

(b) land on which to establish or enlarge a cemetery.

(2) The council of a municipality may pass by-laws author- Idem  
izing,

(a) the purchase of a cemetery or part thereof that is situated within the municipality;

(b) the acquisition of land within the municipality or in an adjacent township or unorganized territory for a cemetery or for the enlargement of an existing cemetery owned by the municipality; or

(c) the sale, transfer or lease of a cemetery or part thereof.

**82.**—(1) If there is an appeal under this Act to the Tribunal  
Tribunal, it shall appoint a time for and hold a hearing.

(2) After holding a hearing, the Tribunal may by order Order  
direct the Registrar to take an intended action or to refrain from taking an action or to take such action as the Tribunal considers that the Registrar ought to take and for such purposes the Tribunal may substitute its opinion for that of the Registrar.

(3) The Tribunal may attach such conditions to its order or Conditions  
to the licence as it considers proper to give effect to the purposes of this Act.

(4) The Registrar, the applicant or licensee who has Parties  
required the hearing and such other persons as the Tribunal may specify are parties to proceedings before the Tribunal under this Act.

**83.**—(1) A notice, order or other document under this Service  
Act or the regulations is sufficiently given, served or delivered if delivered personally or sent by first class mail addressed to the person to whom it is to be given, served or delivered at that person's last known address.

(2) A notice, order or other document sent by first class Idem  
mail in accordance with subsection (1) shall be deemed to be given, served or delivered on the fifth day after the day of mailing, unless the person to whom it is sent establishes that the notice, order or other document was not received until a

later date because of absence, accident, illness or other cause beyond that person's control.

Stay

R.S.O. 1980,  
c. 274

**84.** Despite the fact that a licensee appeals from an order of the Tribunal under section 11 of the *Ministry of Consumer and Commercial Relations Act*, the order takes effect immediately but the Tribunal may grant a stay until the disposition of the appeal.

Surrender of  
licence

**85.** The Registrar may, at any time, cancel a licence upon the written request of the licensee and the surrender of the licence by the licensee.

Transition

**86.—(1)** An approval given under the *Cemeteries Act*, being chapter 59 of the Revised Statutes of Ontario, 1980, shall be deemed to be a consent given under this Act.

Idem

(2) Every person who is an owner on the day this Act comes into force shall be deemed to be licensed under this Act to own the cemetery or crematorium.

Idem

(3) Every person who was employed as a sales representative selling interment rights, cemetery supplies or cemetery services on the day this Act comes into force shall be deemed to be licensed as a sales representative under this Act representing the owner employing that person.

Idem

(4) Subject to subsection (5), subsections (2) and (3) cease to apply one year after this Act comes into force.

Idem

(5) If a person who is deemed, under subsection (2) or (3), to be licensed under this Act applies for a comparable licence under this Act within one year after this Act comes into force, the deemed licence remains in force until the application is finally disposed of.

Idem

(6) Funds set up under the *Cemeteries Act*, being chapter 59 of the Revised Statutes of Ontario, 1980, for,

(a) perpetual care shall be deemed to be a Care and Maintenance Fund; and

(b) pre-need supplies or services shall be deemed to be a Pre-need Assurance Fund.

Act prevails

**87.** This Act prevails over Part VI of the *Ontario Heritage Act*, being chapter 337 of the Revised Statutes of Ontario, 1980.

**88.** Section 1 of *The Toronto General Burying Grounds Act, 1977*, being chapter 110, is repealed and the following substituted therefor:

**1.** The Trustees of the Toronto General Burying Grounds may, in addition to its existing powers to acquire and hold land, acquire and hold land and may exercise all its corporate powers with reference thereto. Power to acquire land

**89.** The *Cemeteries Act*, being chapter 59 of the Revised Statutes of Ontario, 1980, is repealed. Repeal

**90.** This Act comes into force on a day to be named by proclamation of the Lieutenant Governor. Commencement

**91.** The short title of this Act is the *Cemeteries Act, 1989*. Short title









# Bill 31

*(Chapter 50  
Statutes of Ontario, 1989)*

## **An Act to revise the Cemeteries Act**

**The Hon. G. Sorbara**

*Minister of Consumer and Commercial Relations*

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<i>1st Reading</i>	June 12th, 1989
<i>2nd Reading</i>	June 21st, 1989
<i>3rd Reading</i>	October 16th, 1989
<i>Royal Assent</i>	October 16th, 1989

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**Bill 31****1989****An Act to revise the Cemeteries Act**

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

**1. In this Act,**

## Definitions

“burial site” means land containing human remains that has not been approved or consented to as a cemetery in accordance with this Act or a predecessor of this Act;

“by-laws”, when used in relation to a cemetery, means the rules under which a cemetery or crematorium is operated;

“cemetery” means land set aside to be used for the interment of human remains and includes a mausoleum, columbarium or other structure intended for the interment of human remains;

“cemetery services” means,

(a) in respect of a lot,

(i) opening and closing of a grave,

(ii) interring or disinterring human remains,

(iii) providing temporary storage in a receiving vault,

(iv) construction of a foundation for a marker,

(v) setting of corner posts,

(vi) providing,

(A) a tent or canopy,

(B) carrying and lowering devices, and

- (C) ground cover,
  - for an interment service, and
  - (vii) preparing flower beds and planting flowers and shrubs,
- (b) in respect of a crypt or compartment in a mausoleum,
  - (i) opening, closing and sealing of the crypt or compartment,
  - (ii) providing temporary storage in a vault or crypt,
  - (iii) providing a tent or canopy for an interment service, and
  - (iv) providing elevating devices,
- (c) in respect of a niche or compartment in a columbarium,
  - (i) opening, closing and sealing of the niche or compartment, and
  - (ii) providing a tent or canopy for an interment service,
- (d) in respect of a crematorium, all services provided by the owner of the crematorium at the crematorium, and
- (e) in respect of a cemetery, such other services as are provided by the owner of the cemetery at the cemetery;

“cemetery supplies” includes interment vaults, markers, flowers, liners, urns, shrubs and artificial wreaths and other articles intended to be placed in a cemetery;

“columbarium” means a structure designed for the purpose of interring cremated human remains in sealed compartments;

“commercial cemetery” means a cemetery operated for the purpose of making a profit for the owner;

“crematorium” means a building fitted with appliances for the purpose of cremating human remains and includes everything incidental and ancillary thereto;

“Director” means a Director appointed under the *Ministry of Consumer and Commercial Relations Act*; R.S.O. 1980,  
c. 274

“equity share” means a share of a class of shares that carries a voting right either under all circumstances or under some circumstances that have occurred and are continuing;

“human remains” means a dead human body and includes a cremated human body;

“income” means the interest or money earned, including the compounding thereof, by the investment of funds;

“inter” means the burial of human remains and includes the placing of human remains in a lot;

“interment rights” includes the right to require or direct the interment of human remains in a lot;

“interment rights holder” means a person with interment rights with respect to a lot and includes a purchaser of interment rights under the *Cemeteries Act*, being chapter 59 of the Revised Statutes of Ontario, 1980, or a predecessor of that Act;

“land registry office” means the land registry office or the land titles office in the area in which a cemetery is located;

“lot” means an area of land in a cemetery containing, or set aside to contain, human remains and includes a tomb, crypt or compartment in a mausoleum and a niche or compartment in a columbarium;

“marker” means any monument, tombstone, plaque, headstone, cornerstone, or other structure or ornament affixed to or intended to be affixed to a burial lot, mausoleum crypt, columbarium niche or other structure or place intended for the deposit of human remains;

“mausoleum” means a building or structure, other than a columbarium, used as a place for the interment of the human remains in sealed crypts or compartments;

“Minister” means the Minister of Consumer and Commercial Relations;



“municipality” means the corporation or other entity having municipal jurisdiction in the area in which a cemetery is located and includes a police village, city, town, village, township or improvement district or the council thereof;

“owner” means an owner of a cemetery or a crematorium;

“person” includes a board of trustees, local council of a municipality or other organization or group of persons organized for the purpose of operating or managing a cemetery;

“plot” means two or more lots in which the rights to inter have been sold as a unit;

“pre-need supplies or services” means cemetery supplies or services that are not required to be provided until the death of a person alive at the time the arrangements are made;

“prescribed” means prescribed by the regulations made under this Act;

“Registrar” means the Registrar appointed under this Act;

“sales representative” means,

- (a) a person who sells or offers for sale interment rights or cemetery supplies or services on behalf of a commercial cemetery, or
- (b) a person whose primary employment is selling interment rights or cemetery supplies or services;

“Tribunal” means The Commercial Registration Appeal Tribunal;

“trust fund” means a trust fund established for the purpose of this Act.

#### CONSENT TO ESTABLISH CEMETERY OR CREMATORIUM

Consent for  
cemetery,  
etc.

**2.** No person shall establish, alter or increase the capacity of a cemetery or crematorium without the consent of the Registrar.

Application  
for consent

**3.—(1)** An applicant for consent shall apply to the Registrar and,

- (a) pay the prescribed fee;

- (b) submit the prescribed documents showing the layout of the cemetery and the location of existing or proposed plots, lots, structures and fixtures; and
- (c) if the applicant is the owner of a commercial cemetery or a cemetery of a class prescribed for the purpose of this clause, pay a deposit in a prescribed amount into a Care and Maintenance Fund.

(2) If the cemetery or crematorium is proposed to be established or already exists in an area with municipal organization, the applicant, before applying for the consent of the Registrar, must obtain the approval to the proposal of the appropriate municipality. Approval required

(3) If the cemetery or crematorium is to be established or enlarged to encroach on land, in an area without municipal organization, that is Crown land at the time of the application for consent, the applicant, before applying for the consent of the Registrar, must obtain the approval to the proposal of the Minister of Natural Resources. Idem

4. A municipality that receives a request for an approval required by subsection 3 (2) may hold public hearings to determine if the approval is in the public interest. Public hearings

5.—(1) A municipality, upon receiving a request for approval, shall give or refuse to give the approval within a reasonable time after receiving the request. Decision

(2) In considering a request for an approval, the principal factor shall be the public interest. Public interest

(3) A municipality shall, upon arriving at a decision on an application, Notice of decision

(a) send a copy of the decision together with the reasons for it to the Registrar and to the applicant; and

(b) publish notice of the decision in a local newspaper.

(4) The applicant, Registrar or any person with an interest therein may, within fifteen days after publication of the notice of the decision, refer the decision of a municipality to the Ontario Municipal Board for a hearing. Appeal

(5) Despite subsection (4), if an applicant or the Registrar does not receive a copy of a decision until after the decision is published, the fifteen days referred to in subsection (4) apply Idem

after the applicant or Registrar, as the case may be, receives the copy.

Representation

(6) The Registrar is entitled to make representations to the Ontario Municipal Board in any appeal under subsection (4).

Board decision

**6.—**(1) The Ontario Municipal Board may reverse the decision appealed from and substitute its own decision.

Idem

(2) A decision of the Board that is substituted under subsection (1) shall be deemed to be the decision of the municipality.

Certificate of consent

**7.—**(1) The Registrar shall give a certificate of consent to the establishment, alteration or increase in the capacity of a cemetery or crematorium, as the case may be, if,

- (a) the applicant has the approval of the municipality or the Minister of Natural Resources;
- (b) the applicant is licensed to own that cemetery and is and will be on the granting of the licence in compliance with the requirements of this Act and the regulations and the laws intended for the protection of the environment and of health; and
- (c) where neither approval referred to in clause (a) is required, the Registrar is satisfied that the consent is in the public interest.

Notice of refusal to issue

(2) The Registrar, on refusing to give a certificate of consent, shall advise the applicant, in writing, of,

- (a) the reason for the refusal; and
- (b) the applicant's right to appeal.

Appeal

(3) An applicant who receives a notice under subsection (2) may appeal to the Tribunal within fifteen days after receiving the notice.

Order by Tribunal

(4) If the Tribunal finds that the applicant is in compliance with clauses (1) (a) and (b) or that giving the consent is in the public interest, as the case may be, the Tribunal shall order the Registrar to issue the certificate of consent applied for or a consent in a modified version.

Idem

(5) Upon receiving an order under subsection (4), the Registrar shall issue the certificate as ordered.

(6) A certificate of consent shall contain a sufficient description of the cemetery or crematorium so that the certificate may be registered in the appropriate land registry office. Registration

(7) Upon registration of a certificate of consent, the land described therein becomes a cemetery. Effect of registration

#### CLOSING CEMETERY

8.—(1) In this section and in sections 9, 10, 11, 12 and 13, a reference to a cemetery includes any part of a cemetery. Closing cemetery

(2) The Registrar may order a cemetery closed if the closing is in the public interest. Idem

(3) An order shall not be made under subsection (2) until, Notice

(a) notice of the intention to make the order is given in the manner and to the persons prescribed; and

(b) interested persons are given the opportunity to make submissions to the Registrar within such time as is prescribed.

(4) Notice is not required if, Idem

(a) the request is from the owner;

(b) no interments have been made in the cemetery to be closed; and

(c) the consent of all affected interment rights holders has been obtained.

9.—(1) In an order to close a cemetery, the Registrar may, Order

(a) declare a cemetery or a portion thereof closed;

(b) require the owner to disinter all human remains therein and specify the manner of disinterment and the manner and place of reintering or dealing with the remains;

(c) require the owner to remove any markers and relocate them to a specified place; and

(d) require the owner to provide or acquire equivalent interment rights for all holders of interment rights with respect to unused lots in the cemetery.



- Substitution (2) In an order to close a cemetery, the Registrar may designate another person to do anything that the owner may be required to do.
- Notice (3) The Registrar shall give every person who made a submission notice of the order and at the same time advise the person of the right of appeal.
- Coming into force (4) Subject to subsection (5), an order to close a cemetery comes into force thirty days after it is made unless there is an appeal filed before the order comes into force or the order sets out a later date.
- Idem (5) If submissions were made in respect of the order, the order comes into force thirty days after notice has been given to each person who made a submission unless there is an appeal filed before the order comes into force or the order sets out a later date.
- Idem (6) An order that is appealed comes into force upon being upheld by the Tribunal.
- Appeal **10.** A person with an interest therein may appeal, to the Tribunal,
- (a) an order to close a cemetery any time before the order comes into force; or
  - (b) a refusal to order a cemetery closed.
- Certificate **11.**—(1) The Registrar, upon being satisfied that the requirements in an order to close a cemetery have been complied with, shall issue a certificate, with a legal description of the land involved, that the cemetery is closed.
- Idem (2) Despite subsection (1), an applicant therefor is entitled to a certificate that a cemetery is closed if the cemetery had been closed by the Lieutenant Governor in Council but a certificate issued under subsection 59 (7) of the *Cemeteries Act*, being chapter 59 of the Revised Statutes of Ontario, 1980, or a predecessor of that subsection has not been registered.
- Registration (3) A certificate issued under this section may be registered in the appropriate land registry office.
- Effect of registration (4) Upon registration of a certificate of closing, the land described therein ceases to be a cemetery.
- Maintenance fund **12.**—(1) Where any money has been paid into a care and maintenance fund with respect to a cemetery that is to be

closed, the Registrar shall direct that money to be transferred to the trustee of the fund maintained by the owner of the cemetery into which the human remains are to be reinterred or where the interment rights are to be exercised.

(2) The amount transferred under subsection (1) is a credit against the amount required to be paid into the fund by the owner of the cemetery into which the human remains are to be reinterred or where the interment rights are to be exercised. Idem

**13.** Where any money has been paid into a pre-need assurance fund with respect to interment rights in a cemetery that is to be closed, the Registrar shall direct that money to be paid to the trustee of the fund maintained by the owner of the cemetery where alternative interment rights have been made available for the holders of interment rights in the cemetery to be closed. Pre-need  
assurance  
fund

#### LICENCES

**14.** No person shall own a cemetery or crematorium unless licensed under this Act to own that cemetery or crematorium. Licence  
required

**15.—(1)** A person may apply to the Registrar for a licence to own a cemetery or crematorium. Licence to  
own

(2) An applicant is entitled to a licence except if, Requirements

- (a) the applicant cannot reasonably be expected to be financially responsible in the operation of a cemetery or crematorium;
- (b) the past or present conduct of the persons referred to in subsection (3) affords reasonable grounds for belief that the applicant will not operate in accordance with the law and with integrity and honesty;
- (c) the applicant or managing employees of the applicant do not have the experience and competence required to manage the cemetery or crematorium in accordance with the law;
- (d) the applicant is carrying on activities that are, or will be if the applicant is licensed, in contravention of this Act or the regulations;
- (e) the applicant will, if licensed, be carrying on activities under this Act that are in contravention of another Act or a municipal by-law;

- (f) the applicant is unable to provide the resources and facilities required to manage a cemetery or crematorium; or
- (g) the applicant or an employee or agent of the applicant has made a false statement or provided false information in an application for a licence.

Idem

(3) Clause (2) (b) applies to the following persons:

1. The applicant.
2. An officer or director of the applicant.
3. A person holding more than 10 per cent of the equity shares of the applicant or an officer or director of such person.
4. Any person having a beneficial interest in the operation of the business of the applicant or licensee.

Issue of  
licence

(4) The Registrar shall issue a licence to own an identified cemetery or crematorium to an applicant therefor who pays the prescribed fee, complies with the regulations and is not disentitled under subsection (2).

Conditions  
attaching to  
licence

(5) A licence is subject to such conditions as may be consented to by the applicant, imposed by the Tribunal or prescribed.

Notice

(6) If the Registrar intends to refuse to issue a licence, the Registrar shall give the applicant notice of and reasons for the intention and, at the same time, advise the applicant of the right to appeal.

Appeal

(7) An applicant who receives a notice under subsection (6) may appeal the intended refusal to the Tribunal within fifteen days after receiving the notice.

Refusal to  
issue licence

(8) If no appeal is filed under subsection (7), the Registrar may refuse to issue the licence applied for.

Revocation  
of owner's  
licence

**16.—**(1) The Registrar may revoke or refuse to renew a licence to own a cemetery or a crematorium if,

- (a) the conduct or situation of the licensee is such as to disentitle the licensee from being granted a licence;



- (b) where the licensee is a corporation, the shareholders of the corporation have changed in the manner and to the extent prescribed; or
- (c) the Registrar has reasonable and probable grounds to believe that the continued operation of the cemetery or crematorium by the licensee,
  - (i) creates a risk to public health, safety or decency, or
  - (ii) will result in a financial loss by members of the public because provisions of this Act or the regulations are not being complied with.

(2) If the Registrar intends to revoke or to refuse to renew a licence, the Registrar shall give the licensee notice of and reasons for the intention and, at the same time, advise the licensee of the right to appeal. Notice

(3) Any licensee who receives a notice under subsection (2) may appeal the intended revocation or refusal to the Tribunal within fifteen days after receiving the notice. Appeal

(4) If an appeal has been filed under subsection (3), the Registrar shall not revoke the licence unless the Tribunal determines that the licence should be revoked. Delay

(5) If no appeal is filed under subsection (3), the Registrar may revoke the licence after the time for appeal has expired. Where no appeal

(6) Section 14 does not apply to an owner whose licence is revoked so long as the Registrar is satisfied that the owner is making reasonable efforts to sell the cemetery or crematorium. Exception to licensing requirement

**17.—**(1) The Director may appoint a manager to operate a cemetery or crematorium in the place of the owner if, Appointment of manager

- (a) the Director has reasonable and probable grounds, based on a statement under oath, to believe that the owner is doing or is about to do something in the operation of the cemetery or crematorium that,
  - (i) creates or is likely to create a risk to public health, safety or decency, or
  - (ii) is causing or is likely to cause financial loss to members of the public; or



(b) the owner's licence is revoked.

Powers of  
manager

(2) A manager appointed under subsection (1) has all the powers of the owner with respect to the operation of the cemetery or crematorium including the power to exclude the owner and, if the owner is a corporation, the directors or officers of the corporation, from the premises of the business.

Effect of  
appointment

(3) From the appointment of a manager under subsection (1) until the appointment is cancelled, the owner being replaced does not have the authority to deal with any assets or trust funds relating to the cemetery or crematorium and shall not be involved in the operation of the cemetery or crematorium.

Appeal

(4) Any person affected by an appointment of a manager may apply to a judge of the Supreme Court for an order cancelling the appointment and the order may include such directions and conditions as seem appropriate.

Selling  
interment  
rights

**18.**—(1) No person shall sell interment rights unless that person does so as an agent acting on behalf of a licensed owner.

Selling  
supplies, etc.

(2) No person shall act as a sales representative on behalf of an owner unless that person is licensed as a sales representative and represents an owner specified in the sales representative's licence.

Exception for  
owners

(3) Subsections (1) and (2) do not apply to preclude a person licensed as an owner from selling rights, services or supplies to be used in or provided at a cemetery or crematorium owned by that person.

Licence to  
sell

**19.**—(1) An individual may apply to the Registrar for a licence to act as a sales representative on behalf of an owner.

Requirements  
for licence

(2) An applicant is entitled to a licence except if,

- (a) the past or present conduct of the applicant affords reasonable and probable grounds for believing that the applicant will not carry on business in accordance with the law and with integrity and honesty;
- (b) the applicant, in receiving the licence, would be in a position of apparent conflict of interest;
- (c) the applicant does not have a position with a licensed owner or a commitment to be hired by a licensed owner upon receiving a licence; or

- (d) the applicant has made a false statement or provided false information in an application for a licence.

(3) A conviction for an offence that involves misrepresentation or a lack of integrity or honesty is evidence, in the absence of evidence to the contrary, that the person convicted will not carry on business in accordance with the law and with integrity and honesty within the meaning of clause (2) (a). Past conduct

(4) An applicant's intention to work for more than one owner is evidence, in the absence of evidence to the contrary, of an apparent conflict of interest. Conflict of interest

(5) The Registrar shall issue a licence to act as a sales representative to every applicant therefor who pays the prescribed fee, complies with the regulations and is not disentitled under subsection (2). Issue of licence

(6) A licence is subject to such conditions as may be consented to by the licensee, imposed by the Tribunal or prescribed. Conditions attaching to licence

(7) If the Registrar intends to refuse to issue a licence, the Registrar shall give the applicant notice of and reasons for the intention and, at the same time, advise the applicant of the right to appeal. Notice

(8) An applicant who receives a notice under subsection (7) may appeal the intended refusal to the Tribunal within fifteen days after receiving the notice. Appeal

(9) If no appeal is filed under subsection (8), the Registrar may refuse to issue the licence. Refusal to issue licence

**20.—**(1) The Registrar may revoke, suspend or refuse to renew a sales representative's licence if the conduct or situation of the licensee is such as to disentitle the licensee from being granted a licence. Revoking, suspending or refusing to renew sales licence

(2) If the Registrar intends to revoke, suspend or refuse to renew a licence, the Registrar shall give the licensee notice of and reasons for the intention and, at the same time, advise the licensee of the right to appeal. Notice

(3) If there are grounds to suspend a licence and the Registrar considers it to be in the public interest that the licence be suspended immediately, the Registrar may, by order, suspend a sales representative's licence with the order taking effect when it is made. Immediate suspension

Idem (4) An immediate suspension expires fifteen days after it is appealed to the Tribunal unless, before the fifteen days expire, the Tribunal extends the suspension.

Appeal (5) Any licensee who receives a notice under subsection (2) may appeal the intended revocation or suspension to the Tribunal within fifteen days after receiving the notice.

Idem (6) Any licensee whose licence is suspended under subsection (3) may appeal the suspension to the Tribunal.

Delay (7) If an appeal has been filed under subsection (5), the Registrar shall not revoke or suspend the licence unless the Tribunal determines that the licence should be revoked or suspended.

Where no appeal (8) If no appeal is filed under subsection (5), the Registrar may revoke or suspend the licence after the time for appeal has expired.

Application **21.**—(1) A person who is refused a licence or a renewal of a licence under this Act may apply for a licence only after one year has passed since the refusal.

Idem (2) A person whose licence is revoked under this Act may apply for a licence only after one year has passed since the revocation.

Continuation **22.** The licence of a licensee who has applied for a renewal of the licence continues until,

(a) the renewal is granted; or

(b) if the licensee is served with a notice that the Registrar intends to refuse to renew, the time for appeal has expired or, if an appeal is required, the matter has been finally determined.

#### CONSUMER PROTECTION

Interment rights **23.**—(1) An interment rights holder may require, by written demand, the owner to repurchase the rights at any time before they are used.

Idem (2) Every owner who receives a demand made under subsection (1) shall repurchase the interment rights within thirty days after receiving the demand.

Idem (3) The repurchase price of interment rights shall be determined in the prescribed manner.



(4) An interment rights holder or the personal representative of the holder has the right to inter any human remains in a lot or other facility approved under this Act in accordance with the by-laws governing the facility. Idem

(5) An interment rights holder or the personal representative of the holder may erect a commemorative marker on a lot or other receptacle for human remains if the erection of the marker is not in contravention of the by-laws governing the facility. Idem

(6) Every person has the right to reasonable access to a lot at any time except as prohibited by the by-laws governing the facility. Idem

(7) An interment rights holder and the relatives of any person whose remains are interred in a cemetery have the right to decorate the appropriate lot if the decoration is not in contravention of the by-laws governing the facility. Idem

(8) Subsection (1) does not apply to require repurchase of interment rights in a plot in which any interment rights have been exercised. Exception

**24.—**(1) A purchaser of pre-need supplies or services from an owner may cancel, by written notice to the owner, the contract to purchase at any time before the services or the supplies are provided or if the owner contravenes subsection (5). Pre-need services or supplies

(2) Subsection (1) or (5) does not apply if the supplies or services are provided within thirty days after the contract is made because of the death of the person for whom the supplies or services were contracted. Idem

(3) Subject to subsection (4), an owner who receives a notice that a contract is cancelled under this section shall refund to the purchaser all money, together with all income thereon, received under the contract within thirty days after receiving the notice. Idem

(4) An owner to whom this section applies may retain a service fee determined in the prescribed manner unless the contract is cancelled within thirty days after it is made. Idem

(5) No owner shall provide pre-need supplies or services under a contract within the thirty-day period immediately following the day the contract is made. Prohibition



Application (6) This section applies to contracts for pre-need supplies or services whether the contracts were made before or after this section comes into force.

Contract requirements **25.—**(1) A contract for the purchase of interment rights or cemetery supplies or services is not enforceable by an owner unless,

- (a) it is written, signed by both parties and complies with the regulations;
- (b) it sets out the purchaser's cancellation rights under this Act and whether or not cemetery supplies or services are to be provided before the death of the person for whom they are contracted;
- (c) the owner complies with subsections (2) and (3); and
- (d) the owner delivers a signed copy of the contract to the purchaser at the time the contract is made.

Idem (2) An owner who sells interment rights must deliver to the purchaser at the time the contract is made a copy of the by-laws of the cemetery and a certificate of interment rights.

Idem (3) An owner who sells pre-need supplies or services must set out in the contract exactly what the supplies or services are and the price charged for them.

Refund with interest (4) An owner who receives money under a contract that is not enforceable because of the application of this section shall refund to the purchaser, immediately upon written demand, with interest at the prescribed rate, all money received.

Idem (5) Subsection (4) applies even though the owner has paid the money into a trust fund that is not accessible to the owner.

Exception (6) Subsection (4) does not apply, in the case of interment rights, after the rights are used or, in the case of cemetery supplies or services, after the supplies or services are provided.

Public information **26.** Every owner shall make such information as is prescribed available to the public in the manner and form prescribed.

Price list **27.—**(1) Every owner shall file with the Registrar a price list of all interment rights and cemetery services and supplies

that may be sold and all charges that may be made by that owner.

(2) No owner shall charge or collect or receive money for interment rights or cemetery supplies or services that is more than the price for the rights, supplies or services filed by the owner with the Registrar and not disallowed. Idem

(3) The Registrar, upon receiving a price list, may disallow, within thirty days after the list is filed, any price that, in the opinion of the Registrar, is excessive or significantly higher than current market price for the supplies, services or rights within the applicable area. Approval of list

(4) The Registrar shall give immediate written notice to the owner who filed the price list of any price on the list that is disallowed and, in the notice, shall give the reasons for the disallowance. Notice of disallowance

(5) If the Registrar disallows a price on a price list, the owner who filed the list may appeal the disallowance to the Tribunal. Appeal

(6) An owner who has charged any person a price that is disallowed by the Registrar shall pay, forthwith, to that person the difference between the price charged and the price allowed. Repayment

**28.**—(1) If the Registrar believes, on reasonable and probable grounds, that any person licensed under this Act has made a false or misleading public representation or a representation that is in contravention of this Act or the regulations, the Registrar shall order that person to stop making the representation and, in the order, shall set out the reasons for the order. Advertising

(2) A person who receives an order under subsection (1) shall immediately comply with the order and shall refrain from making the representation, in any form, in the future. Compliance with order

(3) Any person who receives an order under subsection (1) may appeal the order to the Tribunal. Appeal

(4) The Tribunal may issue a stay of any order made by the Registrar under subsection (1). Stay of order

**29.**—(1) No person shall contact, in any way, a person in a hospital, nursing home or such other institution as is prescribed for the purpose of suggesting that a contract for the Soliciting prohibited

purchase of interment rights or cemetery supplies or services be made.

Idem (2) No person shall contact, by telephone or in person, a person for the purpose of suggesting that a contract for the purchase of interment rights or cemetery supplies or services be made.

Exception (3) This section does not prohibit any contact made at the request of the person being contacted.

Regulations (4) The Lieutenant Governor in Council may make regulations defining "contract" for the purpose of this section.

Abandoned interment rights **30.**—(1) A cemetery owner may apply to the Registrar for a declaration that interment rights are abandoned.

Idem (2) An application may be made under subsection (1) only in respect of interment rights that had been sold at least twenty years before the application and have not been used.

Inquiry (3) The Registrar, on receiving an application under subsection (1), shall make such inquiry and direct the applicant to give such notices as seem reasonable in the circumstances.

Declaration (4) Upon being satisfied that the rights are abandoned, the Registrar shall issue a declaration to that effect.

Notice (5) The Registrar shall give notice of the declaration or the decision to not make the declaration to the applicant and to every person who has indicated to the Registrar an interest in the matter.

Appeal (6) Any person who has an interest in the matter may appeal the decision of the Registrar to the Tribunal within thirty days after notice of the decision is given under subsection (5).

Right to sell abandoned rights **31.** A cemetery owner may resell interment rights that have been declared abandoned,

(a) if there is no appeal, at the end of the time for appeal; or

(b) if there is an appeal, when the appeal has been finally determined supporting the declaration.

Rights holder's protection **32.**—(1) Any person whose interment rights have been resold after being declared abandoned may apply to the Registrar for redress.



(2) The Registrar, upon receiving an application under subsection (1), shall order the cemetery owner or the owner's successor, as the case may be, to provide, subject to subsection (6), better or equivalent interment rights in that cemetery or to refund an amount determined as prescribed. Idem

(3) Any person whose interment rights have been declared abandoned but have not been resold may apply to the Registrar to have those rights restored. Idem

(4) The Registrar, upon receiving an application under subsection (3), shall order that the declaration be cancelled and that the rights be restored to the person entitled thereto. Idem

(5) This section does not apply in respect of interment rights in cemeteries that are abandoned. Exception

(6) If the cemetery referred to in subsection (2) is one in which interment rights are not available but the owner owns a cemetery in which interment rights are available, the applicant shall be given the option of accepting better or equivalent interment rights in that cemetery. Idem

**33.**—(1) If a marker has been erected on a lot that is the subject-matter of a declaration of abandonment, the cemetery owner shall remove and store it at the owner's expense for at least twenty years. Markers

(2) If an order is made under subsection 32 (2) to provide alternate interment rights, the cemetery owner shall re-erect the marker at the new site at the owner's expense. Idem

(3) If subsection (2) does not apply, the cemetery owner may dispose of the marker at the expiration of the twenty-year period. Idem

**34.**—(1) A cemetery owner who has available space shall provide, upon receiving a written instruction from a welfare administrator, Assisted burials, cemetery

(a) a lot for the interment of the remains of any person referred to in the instruction;

(b) opening and closing services in conjunction with the interment; and

(c) such other related services as are prescribed.

(2) A crematorium owner shall provide, upon receiving a written instruction from a welfare administrator, Crematorium



(a) a crematorium service for the remains of any person referred to in the instruction; and

(b) such other related services as are prescribed.

Exception

(3) Subsections (1) and (2) do not apply to require a religious organization to inter or cremate the remains of a person who is disentitled to burial or cremation in a cemetery or crematorium owned by that organization.

Payment

(4) An owner who provides a service under this section is entitled to be paid the prescribed amount for the service by the welfare administrator.

Welfare administrator

(5) The Lieutenant Governor in Council may make regulations defining "welfare administrator" for the purpose of this section and designating persons by title or job description who are considered welfare administrators for this purpose.

#### TRUST FUNDS

Care and maintenance trust funds  
1987, c. 33

**35.**—(1) Every cemetery owner who sells, assigns or transfers interment rights shall establish with a corporation registered under the *Loan and Trust Corporations Act, 1987*, with that corporation as trustee, a trust fund designated the "Care and Maintenance Fund" for the purpose of providing money for the care and maintenance of the cemetery.

Payments into fund

(2) An owner who is required to establish a fund under this section shall pay into the fund prescribed amounts within the prescribed times.

Payments out of fund

(3) A trustee of a fund established under this section shall pay the income from the fund, after deducting therefrom the trustee's fees, to the owner of the cemetery involved.

Use of money

(4) An owner receiving money pursuant to subsection (3) shall use the money for the upkeep of the cemetery and the markers and structures therein in the prescribed manner.

Capital portion

(5) No trustee of a fund established under this section shall pay out any of the capital portion of the fund.

Idem

(6) Subsection (5) does not apply to preclude a trustee from transferring the fund, with the consent of the Registrar, to another trustee.

Municipal owners

(7) Despite subsection (1), an owner that is a municipality may act as the trustee of a Care and Maintenance Fund established by that municipality.

**36.**—(1) Every owner who sells pre-need cemetery supplies or services shall establish with a corporation registered under the *Loan and Trust Corporations Act, 1987*, with that corporation as trustee, a trust fund designated as the “Pre-need Assurance Fund”.

Pre-need  
assurance  
trust funds  
1987, c. 33

(2) Subsection (1) applies to an owner in respect of sales made by a person that the owner is associated or affiliated with in a manner that is prescribed.

Idem

(3) An owner who is required to establish a fund under this section shall pay into the fund all money received for pre-need supplies or services within the prescribed times.

Payments  
into fund

(4) A trustee of a fund established under this section shall hold all money received for the benefit of the purchaser until that portion of the contract in respect of which the money was paid is completed.

Trust funds

(5) When a portion of a contract is completed, the trustee shall pay to the owner the lesser of,

Idem

(a) the current market price filed with the Registrar for the supplies or services; or

(b) an amount equal to the payments made for the supplies or services together with income accrued on those payments.

(6) If the amount referred to in clause (5) (b) exceeds the price referred to in clause (5) (a), the trustee shall pay the amount of the excess to the owner.

Idem

(7) If a contract in respect of which money is held in the trust fund is cancelled, the trustee shall pay, to the owner, the amount of the initial payments together with income accrued on that amount.

Prior  
cancellation

(8) Subject to subsection 24 (4) (retention of service fee), an owner who receives a payment under subsection (7) shall pay the amount to the purchaser involved within twenty days after receiving the payment.

Payment to  
purchaser

(9) An owner who receives a payment under subsection (6) shall pay the amount to the purchaser or, if an interment has taken place, to the estate of the person interred within twenty days after receiving the payment.

Idem

Municipal  
owners

(10) Despite subsection (1), an owner that is a municipality may act as the trustee of a Pre-need Assurance Fund established by that municipality.

Restrictions  
on trust  
agreements  
R.S.O. 1980,  
c. 512

**37.** No investment of money in a trust established pursuant to this Act shall be made except as permitted under the *Trustee Act*.

Marker  
installation

**38.**—(1) Every person installing a marker in a cemetery shall pay to the cemetery owner the prescribed amount.

Payment into  
fund

(2) An owner receiving money pursuant to subsection (1) shall pay the money into the Care and Maintenance Fund established for that cemetery.

Idem

(3) An owner who does not receive payment under subsection (1) for a marker shall pay into the Care and Maintenance Fund a prescribed amount.

Trust funds  
held by  
owner

**39.**—(1) All money received by an owner that is required to be paid into a trust fund but that is not immediately turned over to a trustee of a trust fund shall be deposited by the owner in a trust account with a credit union or caisse populaire registered under the *Credit Unions and Caisses Populaires Act*, a chartered bank of Canada, the Province of Ontario Savings Office or a trust or loan corporation registered under the *Loan and Trust Corporations Act, 1987*.

R.S.O. 1980,  
c. 102

1987, c. 33

Idem

(2) Money deposited by an owner in a trust account under subsection (1) shall be placed by the owner into a trust fund or otherwise paid out in accordance with this Act or the regulations within the time prescribed.

Providing  
information,  
etc.

**40.**—(1) The Registrar or the Public Trustee may require any owner or trustee to provide,

- (a) any information on trust accounts or trust funds that the owner or trustee is involved with; and
- (b) audited financial statements on any trust account or trust fund relating to a cemetery or crematorium that the owner or trustee is involved with.

Idem

(2) Every owner or trustee who receives a request pursuant to subsection (1) shall forthwith provide all the information or statement required or an explanation as to why it is not possible to provide the information or statement.

Surrogate  
Court

**41.**—(1) The Registrar or the Public Trustee may apply to the Surrogate Court to pass the accounts of any trust fund.



(2) The court, on passing any account, may review and pass upon any agreement made by an owner of a cemetery or crematorium. Idem

(3) The court, on passing any account, may make any order that it considers necessary to ensure that the trust is carried out. Idem

**42.** No cemetery or crematorium owner shall charge or receive any compensation or payment for the effort or expense of establishing or maintaining a trust fund. No compensation to owner

**43.—**(1) Despite subsections 35 (1) and 36 (1), an owner who does not have a practical alternative may require the Public Trustee to act as a trustee for that owner's Care and Maintenance Fund or Pre-need Assurance Fund. Use of Public Trustee

(2) The Registrar and the Public Trustee have an interest in all trust funds. Interested parties

#### CEMETERY AND CREMATORIUM OPERATIONS

**44.—**(1) Every cemetery owner shall maintain, without charge to interment rights holders, the grounds of the cemetery, including all lots, structures and markers, to ensure the safety of the public and to preserve the dignity of the cemetery. Maintenance by cemetery owner

(2) Despite subsection (1), an owner of a non-commercial cemetery may charge interment rights holders, at a rate approved by the Registrar, for the maintenance of lots and markers that were sold before 1955 if there were no trust funds collected for that purpose. Exception

**45.** No owner shall carry on business, in a manner prescribed, in conjunction with a person licensed to operate a funeral establishment or transfer service. Operating with funeral establishment, etc.

**46.** Every cemetery owner shall ensure that all interments in the cemetery are carried out in a decent and orderly manner and that quiet and good order are maintained in the cemetery at all times. Good order

**47.** No person shall inter human remains except in a cemetery that has been consented to by the Registrar and is owned by an owner licensed under this Act. Interment in cemetery only

**48.** If a marker in a cemetery presents a risk to public safety because it is unstable, the owner of the cemetery shall Repairing markers



do whatever is necessary by way of repairing, resetting or laying down the marker so as to remove the risk.

Mortgage on cemetery

**49.**—(1) No encumbrance or charge on a cemetery or crematorium is enforceable unless it was given as security for money borrowed for,

- (a) the purpose of improving the facilities provided;
- (b) the purpose of acquiring land for a cemetery or crematorium; or
- (c) a purpose, approved by the Registrar, relating to the operation of the cemetery or crematorium.

Restriction

(2) No encumbrancer claiming an interest in a cemetery or crematorium may deal with the cemetery or crematorium except in accordance with this Act.

By-laws

**50.**—(1) No person shall operate a cemetery or crematorium except in accordance with the by-laws applying to that cemetery or crematorium.

Owner's by-laws

(2) An owner of a cemetery or crematorium may make by-laws affecting the operation of the cemetery or crematorium.

When effective

(3) No by-law made by an owner is effective until it is filed with and approved by the Registrar.

Prescribed by-laws

(4) The Lieutenant Governor in Council may make regulations prescribing by-laws that apply to cemeteries or crematoria or to any prescribed classes of cemeteries or crematoria.

Notice of by-laws

(5) An owner filing a by-law shall give such notice as is prescribed to such classes of persons as are prescribed.

Approval by Registrar

(6) A by-law filed with the Registrar under this section shall be approved by the Registrar unless the approval is not in the public interest or the effect of the by-law is to give the owner an unreasonable or unfair competitive advantage over another supplier of cemetery services or supplies.

Revocation of by-laws

(7) The Registrar may revoke any by-law that the Registrar could have refused to approve under subsection (6).

Idem

(8) Subsection (7) applies even though the Registrar has previously approved the by-law.

Notice of disallowance or revocation

(9) If the Registrar intends to refuse to approve or revoke a by-law, the Registrar shall give the owner notice of the inten-

tion and, at the same time, advise the owner of the right to appeal.

(10) An owner who receives a notice under subsection (9) may appeal the intended refusal or revocation to the Tribunal within fifteen days after receiving the notice. Appeal

(11) If an appeal is filed against an intended revocation, the Registrar shall not revoke the by-law unless the Tribunal determines that the by-law should be revoked. Delay in revocation

(12) If no appeal is filed against an intended revocation, the Registrar may revoke the by-law after the time for appeal has expired. Where no appeal

**51.**—(1) Subject to subsection (2), no person shall disinter any human remains without, Disinterment

(a) the prior consent of the interment rights holder; and

(b) notifying the proper medical officer of health.

(2) Subsection (1) does not apply to a disinterment ordered by, Where consent not required

(a) a court of competent jurisdiction;

(b) a coroner appointed under the *Coroners Act*; R.S.O. 1980, c. 93

(c) the Attorney General or Solicitor General for Ontario; or

(d) the Registrar under section 9.

(3) For the purpose of clause (1) (a), the consent of the Registrar may be substituted for that of the interment rights holder if, Idem

(a) the whereabouts of an interment rights holder are not known;

(b) the interment rights holder is not readily ascertainable; or

(c) the interment rights holder is not able to consent.

(4) No person shall disinter human remains except in accordance with the regulations. Compliance with regulations

Exception (5) Clause (1) (b) does not apply to the disinterment of cremated human remains.

Consent of Registrar **52.**—(1) The Registrar, before consenting to a disinterment, shall consider whether any known person may have an interest in the disposition of the remains and, if there may be such a person, shall order that notice of the intention to disinter be given.

Notice of intention (2) A notice of intention to disinter shall be given in the manner and form set out in the order.

Objections (3) Any person objecting to a disinterment may file a written objection with the Registrar at any time before the consent of the Registrar is given.

Idem (4) If any person files an objection to a disinterment, the Registrar shall determine whether that person has an interest in the remains and, if so, shall ascertain the person's wishes.

Conditions for consent (5) In giving a consent to a disinterment, the Registrar shall take into account the wishes of any person with an interest in the remains and make the consent subject to such conditions as the Registrar considers appropriate.

Notice of decision (6) Notice of the Registrar's decision shall be given to the person who applied for the consent, to any person to whom notice is given under subsection (1) and to any person filing an objection.

Appeal (7) A person receiving a notice under subsection (6) may appeal, to the Tribunal, the Registrar's decision within fifteen days after receiving the notice.

Delay (8) If an appeal is filed under subsection (7), the Registrar shall not consent to the disinterment unless the Tribunal determines that the disinterment should proceed.

Where no appeal (9) If no appeal is filed under subsection (6), the Registrar may consent to the disinterment after the time for appeal has expired.

Attendance by medical officer **53.**—(1) A medical officer of health has the authority to attend at, supervise and direct a disinterment.

Diseases (2) If a medical officer of health determines that remains are those of a person who died of a communicable disease within the meaning of the *Health Protection and Promotion Act, 1983*, the remains shall not be dealt with in any way except as prescribed by the regulations made under that Act.



**54.** No person shall remove human remains from a cemetery unless a certificate of a medical officer of health or the cemetery owner confirming that this Act and the regulations have been complied with is affixed to the container.

Certificate  
required

**55.** A burial certificate under the *Vital Statistics Act* is not required to reinter human remains that have been disinterred in accordance with this Act and the regulations.

R.S.O. 1980,  
c. 524,  
does not  
apply

**56.—(1)** No person shall cremate human remains except in a crematorium that has been established with the consent of the Registrar and is owned by an owner licensed under this Act.

Cremation

(2) No person shall cremate human remains,

Prohibitions

(a) for which there is not a coroner's certificate supplied by the Ministry of Consumer and Commercial Relations;

(b) in a container made of, or containing, non-flammable or hazardous material or a prescribed material; or

(c) in which a pacemaker or other prescribed device is implanted.

(3) Except if required by a welfare administrator or for the purpose of compliance with this Act or the regulations made under this Act, a crematorium owner has the right to refuse to cremate any human remains.

Right to  
refuse

**57.** Every crematorium owner shall ensure that all cremations in the crematorium are carried out in a decent and orderly manner and that quiet and good order are maintained in the crematorium at all times.

Good order

**58.—(1)** Any person who purchases a cremation service shall deposit, at the request of the crematorium owner, a prescribed amount with the owner to cover the cost of interring the cremated remains.

Deposit re  
disposal

(2) An owner receiving money under subsection (1) shall hold the money in trust.

Held in trust

(3) If the cremated remains are claimed by the interment rights holder within one year after the cremation, the owner shall refund the money to the person entitled thereto at the time of the claim.

Refund



Owner's  
compensation

(4) If, after one year, the cremated remains have not been claimed and the owner has made reasonable efforts to contact the representatives of the deceased, the owner may inter them and is then entitled to the money held in trust as compensation.

Neglected  
cemetery

**59.**—(1) A municipality may order a cemetery owner who does not keep the cemetery in good order and repair to restore it to good order and repair.

Appeal

(2) An owner may appeal, to the Registrar, an order to restore within fifteen days after receiving the order.

Idem

(3) The Registrar, on receiving an appeal, shall invite submissions from the owner and the municipality and shall make such other inquiries as are appropriate in the circumstances.

Idem

(4) After considering submissions made and the circumstances, the Registrar shall confirm or reverse the order of the municipality or substitute his or her order for that of the municipality.

R.S.O. 1980,  
c. 484  
does not  
apply  
Repairs

(5) The *Statutory Powers Procedure Act* does not apply to an appeal under this section.

(6) If an owner does not restore a cemetery as specified in an order given under subsection (1) within such reasonable time as is set out in the order, the municipality may have the required work done and recover the costs thereof from the owner.

Abandoned  
cemeteries

**60.**—(1) An application to declare a cemetery abandoned may be made to a judge of the District Court if the owner of the cemetery,

- (a) cannot be found or is unknown;
- (b) is unable to maintain it;
- (c) was a corporation that was dissolved; or
- (d) is not licensed as an owner under this Act.

Application

(2) An application to declare a cemetery abandoned may be made by the owner of the cemetery, the municipality or the Registrar.

Notice of  
application

(3) An applicant under subsection (2) must give notice of the application to the other persons referred to in subsection (2).

(4) The municipality is responsible for the cost of an application under this section including the cost of a survey of the land involved. Costs

(5) Despite subsection (4), an owner who makes an unsuccessful application is responsible for the costs referred to in subsection (4). Idem

(6) A judge to whom an application is made under subsection (1), upon being satisfied that there is a basis for the application, shall, by order, declare the cemetery that is the subject-matter of the application to be abandoned. Declaration

(7) Upon a declaration that a cemetery is abandoned being registered in the appropriate land registry office, the municipality becomes the owner of the cemetery with all the rights and obligations in respect to the cemetery and the assets, funds and trust accounts related thereto that the previous owner had. Municipality becomes owner

(8) A declaration under this section may exempt the municipality being declared the owner from any provision of this Act or the regulations that it would be inappropriate, in the circumstances, for a new owner to be subject to. Exemptions

(9) Upon an application being made to declare a cemetery abandoned, the municipality within which the cemetery is situated is responsible for the maintenance of the cemetery until the application is disposed of. Maintenance

**61.** The Registrar may require any owner who has an interest in a cemetery that appears to be abandoned or neglected to maintain that cemetery as a condition of retaining a licence to own a cemetery or crematorium. Dual interest

#### ADMINISTRATION

**62.—(1)** There shall be a Registrar appointed for the purposes of this Act. Registrar

(2) There shall be one or more Deputy Registrars appointed who may exercise such powers and perform such duties of the Registrar as are delegated by the Registrar. Deputy Registrars

(3) The Registrar, Deputy Registrars and all other employees necessary for the administration of this Act shall be appointed under the *Public Service Act*. Application of R.S.O. 1980, c. 418

## Inspectors

**63.**—(1) The Registrar may appoint inspectors to carry out inspections for the purpose of determining whether there is compliance with this Act and the regulations.

## Certificate of appointment

(2) An inspector exercising a power under this Act shall, on request, produce his or her certificate of appointment.

## Inspections

**64.**—(1) For the purpose of ensuring compliance with this Act and the regulations, an inspector may,

- (a) enter any place at any reasonable time;
- (b) request the production for inspection of documents or things that may be relevant to the inspection;
- (c) inspect and, upon giving a receipt therefor, remove documents or things relevant to the inspection for the purpose of making copies or extracts;
- (d) inquire into negotiations, transactions, loans or borrowings of a licensee and into assets owned, acquired or disposed of by a licensee that are relevant to an inspection;
- (e) conduct such tests as are reasonably necessary to determine the integrity of a structure, fence or marker in a cemetery; and
- (f) remove materials or substances for examination or test purposes subject to the licensee or other occupant of the premises being notified thereof.

## Entry to dwellings

(2) Subsection (1) does not apply to confer a power of entry to a room actually used as a dwelling without the consent of the occupier.

## Warrant

(3) A justice of the peace may issue a warrant authorizing the person named in the warrant,

- (a) to do anything set out in clause (1) (a), (c), (e) or (f);
- (b) to enter and search a room actually used as a dwelling; or
- (c) to search for and seize any document or thing relevant to the inspection.



(4) A warrant may be issued under subsection (3) if the justice of the peace is satisfied on information under oath that in the case of a warrant to be issued under,

Requirements  
for warrant  
to issue

- (a) clause (3) (a), an inspector has been prevented from doing anything permitted under clause (1) (a), (c), (e) or (f) or there is reasonable ground to believe that an inspector may be prevented from doing any of those things;
- (b) clause (3) (b), it is necessary that a room actually used as a dwelling be entered for the purposes of carrying out an inspection or there is, in such a room, a document or thing that there is reasonable ground to believe is relevant to an inspection under this Act; or
- (c) clause (3) (c), it is necessary to search for and seize a document or thing that there is reasonable ground to believe will afford evidence relevant to a contravention of this Act or the regulations.

(5) A warrant issued under this section shall specify the hours and days during which it may be executed.

Execution of  
warrant

(6) Unless renewed, a warrant under this section expires not later than thirty days after the date on which it is made.

Expiry

(7) A warrant under this section may be issued or renewed upon application without notice.

Notice not  
required

(8) A warrant under this section may be renewed for any reason for which it may be issued.

Renewal of  
warrant

(9) A person doing anything under the authority of a warrant issued under this section is authorized to call on such police officers to assist and to use such force as is necessary in the execution of the warrant.

Assistance

(10) An inspector carrying out an inspection, with or without a warrant, may be accompanied by such persons with expertise in the subject-matter of the inspection as the inspector considers necessary.

Use of  
experts

(11) An investigator taking material in order to copy it shall make the copy with reasonable dispatch and shall promptly return the material taken.

Copies

(12) Copies of, or extracts from, documents and things removed under this section and certified as being true copies

Admissibility  
of copies



of, or extracts from, the originals by the person who made them are admissible in evidence to the same extent as, and have the same evidentiary value as, the documents or things of which they are copies or extracts.

Obstruction  
of inspector

**65.**—(1) No person shall obstruct an inspector in carrying out an inspection under this Act or withhold, destroy, conceal or refuse to provide any relevant information or thing required for the purpose of the inspection.

Facilitating  
inspection

(2) It is a condition of each licence issued under this Act that the licensee facilitate an inspection relevant to that licence.

Freezing  
assets

**66.**—(1) If the Director has reasonable and probable grounds to believe that the owner of a cemetery or crematorium is doing or is about to do something that will jeopardize the public interest or the proper care and maintenance of a cemetery, the Director may direct any person holding, having on deposit or controlling assets of the owner or trust funds under the control of the owner to hold the assets or trust funds until further instructions are received from the Director to release a particular asset or trust fund from the direction.

Scope of  
direction

(2) In the case of a bank or a corporation, a direction under subsection (1) applies only to the offices, branches or agencies thereof named in the direction.

Application  
for directions

(3) Any person named in a direction issued under subsection (1), if in doubt as to the application of the direction to particular assets or trust funds, may apply to the Director for an order of clarification.

Revocation  
or  
amendment  
of direction

(4) On an application of the owner or any other person having an interest therein, the Director may make an order on such conditions as are set out in the order revoking the direction or consenting to the release of a particular asset or trust fund from the direction.

Appeal

(5) Any person affected by a direction or order of the Director made under this section or a refusal to make an order may appeal to the Tribunal.

Restraining  
order

**67.**—(1) If the Director is of the opinion that any person is not complying with this Act or the regulations, despite the imposition of any penalty in respect of the non-compliance and in addition to any other remedy available, the Director may apply to a judge of the High Court for an order directing the person to comply.

(2) Upon an application under subsection (1), the judge <sup>Idem</sup> may make the order applied for or such other order as the judge thinks appropriate.

(3) An appeal lies to the Divisional Court from an order <sup>Idem</sup> made under subsection (2).

#### BURIAL SITES

**68.** No person shall disturb or order the disturbance of a <sup>Disturbing burial site prohibited</sup> burial site or artifacts associated with the human remains except,

(a) on instruction by the coroner; or

(b) pursuant to a site disposition agreement.

**69.** Any person discovering or having knowledge of a <sup>Unmarked burial sites</sup> burial site shall immediately notify the police or coroner.

**70.—**(1) The Registrar may order the owner of land on <sup>Investigation</sup> which a burial site is discovered to cause an investigation to be made to determine the origin of the site.

(2) Section 68 does not apply to a person investigating the <sup>Idem</sup> nature or origin of the site who is disturbing the site in the course of the investigation.

(3) A person conducting an investigation shall do so with <sup>Idem</sup> the minimum disturbance to the site that is reasonable in the circumstances.

(4) If the Registrar is of the opinion that an investigation <sup>Idem</sup> under subsection (1) would impose an undue financial burden on the land owner, the Registrar shall undertake the investigation.

**71.—**(1) As soon as the origin of a burial site is deter- <sup>Declaration</sup> mined, the Registrar shall declare the site to be,

(a) an unapproved aboriginal peoples cemetery;

(b) an unapproved cemetery; or

(c) an irregular burial site.

(2) For the purpose of subsection (1), <sup>Interpretation</sup>

- (a) an irregular burial site is a burial site that was not set aside with the apparent intention of interring therein human remains;
- (b) an unapproved cemetery is land set aside with the apparent intention of interring therein, in accordance with cultural affinities, human remains and containing remains identified as those of persons who were not one of the aboriginal peoples of Canada;
- (c) an unapproved aboriginal peoples cemetery is land set aside with the apparent intention of interring therein, in accordance with cultural affinities, human remains and containing remains identified as those of persons who were one of the aboriginal peoples of Canada.

## Definition

(3) For the purposes of this section and section 72, “unapproved” means not approved in accordance with this Act or a predecessor of this Act.

Site  
disposition  
agreement

**72.**—(1) The Registrar, on declaring a burial site to be an unapproved aboriginal peoples cemetery or an unapproved cemetery, shall serve notice of the declaration on such persons or class of persons as are prescribed.

## Idem

(2) All persons served with notice under subsection (1) shall enter into negotiations with a view of entering into a site disposition agreement.

## Idem

(3) If a site disposition agreement is not made within the prescribed time, the Registrar shall refer the matter to arbitration.

## Idem

(4) Despite subsection (3), the Registrar, if of the opinion that an agreement may be reached, may defer referring the matter to arbitration so long as there appears to be a reasonable prospect of an agreement being reached.

Arbitrated  
settlement

**73.** The persons named in an arbitrated settlement who have been given the opportunity to fully participate in the arbitration process are bound by the settlement whether they chose to participate or not.

Irregular  
burial site

**74.**—(1) An owner of land that contains an irregular burial site shall ensure that the remains found in the site are interred in a cemetery.



(2) No owner of a cemetery interring human remains for an owner of land to whom this section applies may charge more than the prescribed amount for the interment. Charges

**75.**—(1) No person shall alter or move the remains or marker of a Canadian or Allied veteran or a Commonwealth War Burial without the agreement of the Department of Veterans Affairs (Federal), the Commonwealth War Graves Commission or such other persons and associations as are prescribed. War Graves

(2) Subsection (1) applies with respect to the alteration or removal of the remains or a marker of a Canadian or Allied veteran only if the Department of Veterans Affairs (Federal) contributed to the cost of the interment. Idem

(3) If an agreement is not reached, the person who wants to make the alteration or move may apply to the Registrar for directions. Idem

(4) When an application is made under subsection (3), the Registrar shall instruct the applicant to give notice of the application to such persons and associations as the Registrar considers may have an interest in the matter. Idem

(5) All persons and associations receiving a notice under subsection (4) may make submissions on the matter to the Registrar in such form and manner as the Registrar instructs. Idem

(6) After considering all submissions made, the Registrar shall direct the applicant on the manner of dealing with the remains or marker in question. Idem

(7) Subsection (1) does not apply to a person altering or moving remains or markers in accordance with the direction of the Registrar. Idem

**76.**—(1) The Lieutenant Governor in Council may make regulations, Regulations

1. prescribing documents, information and notices to be provided in the course of an application;
2. prescribing fees and requiring the payment of fees;
3. providing for the manner in which a deposit required for approval shall be applied or returned;
4. prescribing classes of cemeteries;



5. prescribing, for any notice required to be given under this Act, the type of notice and the manner in which it is to be given;
6. prescribing requirements and standards for the placing and spacing of interments, markers, fixtures, fences or other structures in a cemetery;
7. prescribing the minimum depth of coverage for in-ground burials;
8. prescribing the drains, sewers and other structures for the flow of water required in a cemetery;
9. governing mausolea, columbaria and other structures on or in a cemetery and establishing construction standards;
10. prescribing classes and types of licences;
11. governing the issue of licences and providing for the renewal of licences;
12. governing the term during which each class or type of licence is valid;
13. prescribing conditions that attach to any class or type of licence;
14. providing for posting of bonds and prescribing the amounts thereof;
15. providing for the forfeiture of posted bonds and for the distribution of the proceeds of forfeited bonds;
16. prescribing practices or actions that are evidence of incompetence or lack of honesty and integrity;
17. requiring the approval of the Registrar for promotional and sales material and prescribing the criteria for approval;
18. prescribing the type of promotional and sales material that requires the approval of the Registrar and providing for its submission to the Registrar;
19. governing and prohibiting the use of any promotional or sales material or any practice;

20. prescribing records and information to be kept by licensees;
21. providing for and requiring the submission of records and information and providing for access by agents of the Registrar to records and information;
22. prescribing the form of and conditions to be included in contracts for the sale of interment rights and cemetery supplies and services;
23. prescribing the information to be supplied to purchasers of interment rights and cemetery supplies and services;
24. prescribing the form of and information to be included in certificates of interment rights;
25. prescribing information to be provided to the public, any person or any class of persons and prescribing the manner of providing that information;
26. governing advertising and the manner of soliciting business;
27. requiring the use of any prescribed forms;
28. governing the use of contracts and certificates;
29. governing the uses to which owners may apply income from Care and Maintenance Funds;
30. prescribing records and information on trust funds to be provided to purchasers of interment rights and pre-need supplies or services;
31. governing the establishment, maintenance and operation of trust funds including the Care and Maintenance Fund and the Pre-need Assurance Fund;
32. governing the payment of money into and out of trust funds including the time within which and the circumstance under which payments are to be made;
33. prescribing fees that may be retained by trustees in respect of any type of trust fund;
34. governing the interment, disinterment, disposition and removal of human remains;

35. governing the preparation of disinterred human remains for transportation including prescribing the design and material of container to be used;
36. prescribing standards for the construction, installation, stabilization and preservation of markers and other cemetery supplies and requiring compliance with the standards;
37. governing the standards of care and maintenance required for a cemetery;
38. governing the procedure for approving by-laws made by owners and for revoking any by-laws made by owners;
39. prescribing the criteria that the Registrar shall use in approving by-laws;
40. governing the manner of conducting cremations and dealing with cremated remains;
41. prescribing amounts to be deposited, in trust, to compensate for disposing of cremated remains and regulating the handling of the trust moneys;
42. governing the location and ownership of cemeteries and crematoria;
43. governing prices and the range of prices that may be included on price lists filed with the Registrar by owners;
44. prescribing procedures to be followed in dealing with burial sites and requiring that they be followed;
45. governing arbitration in the absence of a site disposition agreement and requiring compliance with prescribed procedure;
46. prescribing the subject-matters to be contained in a site disposition agreement or arbitration settlement and requiring their inclusion;
47. exempting any person or class of persons, any cemetery or class of cemetery or anything or class of thing from any provision of this Act or the regulations;

48. prescribing conditions subsequent or precedent for a prescribed exemption and providing that an exemption may be subject to the Registrar being satisfied that it is not contrary to the public interest;
49. prescribing what constitutes notice in any provision where notice is required to be given;
50. governing the time for giving any notice for which a time is not set out in this Act and delegating to the Registrar power to extend any prescribed time;
51. prescribing anything that is referred to in this Act as being prescribed.

(2) Any regulation may be general or specific or of limited application. Limitation

**77.** No person shall cause or commit a nuisance in a cemetery or wilfully and unlawfully disturb persons assembled for the purpose of interring human remains in a cemetery. Interfering with cemetery

**78.—(1)** Any person who, in a cemetery, damages or moves any tree, plant, marker, fence, structure or other thing usually erected, planted or placed in a cemetery is liable to the cemetery owner and any interment rights holder who, as a result, incurs damage. Cause of action

(2) In an action under subsection (1), the amount of damages shall be the amount required to restore the cemetery to the state that it was in before anything was damaged or moved by the person liable. Idem

(3) Any person collecting damages under this section shall use the full amount collected to restore the cemetery. Idem

**79.—(1)** Every person who, Offence

- (a) furnishes false, misleading or incomplete information in an application under this Act or in a statement or return required to be furnished under this Act or the regulations;
- (b) fails to comply with an order made under this Act; or
- (c) contravenes any provision of this Act or the regulations,

is guilty of an offence.



Idem (2) Every director or officer of a corporation who concurs in an offence under this Act is guilty of an offence.

Idem (3) An individual who is convicted of an offence under this Act is liable to a fine of not more than \$20,000 and, on a subsequent conviction, to a fine of not more than \$20,000 and to imprisonment for a term of not more than one year.

Idem (4) A corporation that is convicted of an offence under this Act is liable to a fine of not more than \$40,000.

Limitation (5) Subject to subsection (6), no proceeding under this section shall be commenced more than two years after the offence was committed.

Idem (6) No proceeding under clause (1) (a) or subsection 35 (2) or 36 (3) or section 68 shall be commenced more than one year after the facts upon which the proceeding is based first came to the knowledge of the Registrar.

Restitution (7) If a person is convicted of an offence under this Act, the court making the conviction may, in addition to any other penalty, order the person convicted to make compensation or restitution in relation thereto.

Certificate as evidence

**80.** A statement as to,

- (a) the consent or lack of consent to establish, alter or increase the capacity of a cemetery or crematorium;
- (b) the licensing or non-licensing of any person;
- (c) the filing or non-filing of any document or material required or permitted to be filed with the Registrar;
- (d) the time when the facts upon which proceedings are based first came to the knowledge of the Registrar; or
- (e) any other matter pertaining to licensing, non-licensing, filing or non-filing,

purporting to be certified by the Registrar is, without proof of the office or signature of the Registrar, admissible in evidence in any proceeding, in the absence of evidence to the contrary, of the facts stated therein.

Municipal powers

**81.**—(1) A municipality may expropriate,

- (a) a cemetery or part thereof, whether the cemetery exists within or outside the municipality; and
- (b) land on which to establish or enlarge a cemetery.

(2) The council of a municipality may pass by-laws author- Idem  
izing,

- (a) the purchase of a cemetery or part thereof that is situated within the municipality;
- (b) the acquisition of land within the municipality or in an adjacent township or unorganized territory for a cemetery or for the enlargement of an existing cemetery owned by the municipality; or
- (c) the sale, transfer or lease of a cemetery or part thereof.

**82.**—(1) If there is an appeal under this Act to the Tribunal  
Tribunal, it shall appoint a time for and hold a hearing.

(2) After holding a hearing, the Tribunal may by order Order  
direct the Registrar to take an intended action or to refrain from taking an action or to take such action as the Tribunal considers that the Registrar ought to take and for such purposes the Tribunal may substitute its opinion for that of the Registrar.

(3) The Tribunal may attach such conditions to its order or Conditions  
to the licence as it considers proper to give effect to the purposes of this Act.

(4) The Registrar, the applicant or licensee who has Parties  
required the hearing and such other persons as the Tribunal may specify are parties to proceedings before the Tribunal under this Act.

**83.**—(1) A notice, order or other document under this Service  
Act or the regulations is sufficiently given, served or delivered if delivered personally or sent by first class mail addressed to the person to whom it is to be given, served or delivered at that person's last known address.

(2) A notice, order or other document sent by first class Idem  
mail in accordance with subsection (1) shall be deemed to be given, served or delivered on the fifth day after the day of mailing, unless the person to whom it is sent establishes that the notice, order or other document was not received until a

later date because of absence, accident, illness or other cause beyond that person's control.

Stay

R.S.O. 1980,  
c. 274

**84.** Despite the fact that a licensee appeals from an order of the Tribunal under section 11 of the *Ministry of Consumer and Commercial Relations Act*, the order takes effect immediately but the Tribunal may grant a stay until the disposition of the appeal.

Surrender of  
licence

**85.** The Registrar may, at any time, cancel a licence upon the written request of the licensee and the surrender of the licence by the licensee.

Transition

**86.—(1)** An approval given under the *Cemeteries Act*, being chapter 59 of the Revised Statutes of Ontario, 1980, shall be deemed to be a consent given under this Act.

Idem

(2) Every person who is an owner on the day this Act comes into force shall be deemed to be licensed under this Act to own the cemetery or crematorium.

Idem

(3) Every person who was employed as a sales representative selling interment rights, cemetery supplies or cemetery services on the day this Act comes into force shall be deemed to be licensed as a sales representative under this Act representing the owner employing that person.

Idem

(4) Subject to subsection (5), subsections (2) and (3) cease to apply one year after this Act comes into force.

Idem

(5) If a person who is deemed, under subsection (2) or (3), to be licensed under this Act applies for a comparable licence under this Act within one year after this Act comes into force, the deemed licence remains in force until the application is finally disposed of.

Idem

(6) Funds set up under the *Cemeteries Act*, being chapter 59 of the Revised Statutes of Ontario, 1980, for,

(a) perpetual care shall be deemed to be a Care and Maintenance Fund; and

(b) pre-need supplies or services shall be deemed to be a Pre-need Assurance Fund.

Act prevails

**87.** This Act prevails over Part VI of the *Ontario Heritage Act*, being chapter 337 of the Revised Statutes of Ontario, 1980.

**88.** Section 1 of *The Toronto General Burying Grounds Act, 1977*, being chapter 110, is repealed and the following substituted therefor:

**1.** The Trustees of the Toronto General Burying Grounds may, in addition to its existing powers to acquire and hold land, acquire and hold land and may exercise all its corporate powers with reference thereto. Power to  
acquire land

**89.** The *Cemeteries Act*, being chapter 59 of the Revised Statutes of Ontario, 1980, is repealed. Repeal

**90.** This Act comes into force on a day to be named by proclamation of the Lieutenant Governor. Commence-  
ment

**91.** The short title of this Act is the *Cemeteries Act, 1989*. Short title









# Bill 32

## **An Act to amend the Landlord and Tenant Act**

Ms Bryden

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*1st Reading*      June 12th, 1989

*2nd Reading*

*3rd Reading*

*Royal Assent*



#### EXPLANATORY NOTE

The purpose of the Bill is to make void any provision in a tenancy agreement prohibiting a tenant from keeping a pet in a rented residential premises. An exception is provided in the case of rental of a condominium unit if the declaration for that condominium prohibits owners from keeping pets.

Bill 32

1989

## An Act to amend the Landlord and Tenant Act

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

**1.** The *Landlord and Tenant Act*, being chapter 232 of the Revised Statutes of Ontario, 1980, is amended by adding thereto the following section:

**97a.**—(1) Any provision in a tenancy agreement prohibiting a tenant from keeping a pet in residential premises is void. Provisions  
restricting  
pets void

(2) Subsection (1) does not apply to a tenancy agreement in respect of a unit of a corporation to which the *Condominium Act* applies if the declaration for that corporation prohibits the keeping of pets in units of the corporation. Exception  
R.S.O. 1980,  
c. 84

**2.** This Act comes into force on the day it receives Royal Assent. Commence-  
ment

**3.** The short title of this Act is the *Landlord and Tenant Amendment Act, 1989*. Short title



# Bill 33

## **An Act to revise the Ontario Mineral Exploration Program Act**

**The Hon. S. Conway**  
*Minister of Mines*

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*1st Reading*      June 15th, 1989  
*2nd Reading*  
*3rd Reading*  
*Royal Assent*

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#### EXPLANATORY NOTE

The purpose of the Bill is to provide for the establishment of incentive programs for the exploration and development of mineral resources in Ontario. The Bill replaces the existing Act. The Bill permits the Lieutenant Governor in Council to make regulations establishing incentive programs and prescribing eligibility conditions. Programs established under the Act will be administered by the Minister of Mines.

**Bill 33****1989**

**An Act to revise the  
Ontario Mineral Exploration Program Act**

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

**1.** In this Act,

Definitions

“development” means preparing a deposit of a prescribed mineral resource for production;

“exploration” means prospecting or exploring for a prescribed mineral resource;

“incentive” means a grant, loan, payment or other financial concession made under this Act;

“incentive program” means a program prescribed under this Act to encourage exploration or development in Ontario;

“Minister” means the Minister of Mines;

“Ministry” means the Ministry of the Minister;

“prescribed” means prescribed by the regulations;

“project” means a project of exploration or development in Ontario;

“regulations” means the regulations made under this Act.

**2.** The Lieutenant Governor in Council may make regulations to establish incentive programs. Incentive programs

**3.** The Minister may designate a project under an incentive program for a specified period. Designation of project

**4.** The Minister may provide an incentive to any person who, Incentives

- (a) is ordinarily resident in Canada; and
- (b) meets the prescribed eligibility conditions of an incentive program.

Incentive not  
assignable,  
etc.

**5.** An incentive under this Act may not be assigned, charged, attached, anticipated or given as security, and any transaction purporting to assign, charge, anticipate or give as security an incentive is void.

Information  
confidential

**6.—(1)** Except as provided in subsections (2), (3) and (4), all information obtained under this Act by an employee or agent of the Ministry is privileged and confidential and no such employee or agent shall knowingly communicate or allow to be communicated to any person not legally entitled thereto any such information, or allow any person not legally entitled to do so to inspect or have access to any statement or other writing containing such information.

Exception

(2) Any information referred to in subsection (1) obtained by an employee or agent of the Ministry in the administration of this Act may be communicated to an employee of,

- (a) the Department of National Revenue of Canada; or
- (b) the Ministry of Revenue or the Ministry of Treasury and Economics.

Idem

(3) The name of a person who has received incentives under this Act and the aggregate of incentives received by the person may be published or disclosed by the Minister.

Idem

(4) One year or more after the expiry of the designation of a project designated under this Act, the Minister may disclose any technical reports, maps, plans or other particulars of the project that were submitted with any application relating to the project.

Return of  
incentive  
where not  
entitled

**7.—(1)** A person who receives an incentive to which the person is not entitled or a payment in excess of an incentive to which the person is entitled shall forthwith return to the Minister the amount or excess amount, as the case may be.

Recovery of  
incentive  
where not  
entitled

(2) If a person receives an incentive to which the person is not entitled or a payment in excess of an incentive to which the person is entitled, the amount or excess amount, as the case may be, may be recovered in any court of competent jurisdiction as a debt due to the Crown in proceedings commenced at any time, and, where applicable, the amount of

any such indebtedness may be recovered in the manner provided for in the *Financial Administration Act*.

R.S.O. 1980,  
c. 161

**8.—(1)** Every person is guilty of an offence who,

Offence

- (a) knowingly furnishes false or misleading information in an application or statement required by this Act or the regulations;
- (b) knowingly fails to disclose any information that is required to be disclosed by this Act or the regulations;
- (c) knowingly contravenes subsection 7 (1); or
- (d) contravenes subsection 6 (1) or 12 (1).

(2) If a corporation commits an offence under this Act, every director or officer of the corporation who authorizes, permits or acquiesces in the commission of the offence is a party to and is guilty of an offence and on conviction is liable to the penalty provided for the offence whether or not the corporation has been prosecuted or convicted.

Director or  
officer of  
corporation

(3) An individual who is convicted of an offence under this Act is liable to a fine of not more than \$5,000.

Individual

(4) A corporation that is convicted of an offence under this Act is liable to a fine of not more than \$50,000.

Corporation

(5) No proceeding in respect of an offence under this Act shall be commenced more than five years after the offence was committed.

Limitation

**9.—(1)** The Minister may, for any purpose relating to the administration or enforcement of this Act, require from any person whose project has been designated under this Act any information, or the production of any document, within such reasonable time as is stipulated in the request.

Request for  
information  
or document

(2) If a person does not comply within a reasonable time with a request under subsection (1), the Minister may by written notice declare the person to be ineligible for incentives.

Loss of  
eligibility  
upon failure  
to comply

(3) For purposes of section 7, a person declared under subsection (2) to be ineligible for incentives shall be deemed not to be entitled to any incentives received in respect of the project to which the request under subsection (1) relates.

Return of  
incentive



Appointment  
of persons to  
make  
inspections

Certificate of  
appointment

**10.—(1)** The Minister may appoint persons to make inspections under this Act.

(2) A person appointed under subsection (1) exercising a power under this Act shall, on request, produce his or her certificate of appointment.

Inspections

**11.—(1)** For the purpose of ensuring compliance with this Act and the regulations, a person appointed under subsection 10 (1) may,

- (a) enter any place at any reasonable time where,
  - (i) any business associated with a project designated under this Act is carried on or any property relating to such a project is kept,
  - (ii) anything is done in connection with a business referred to in subclause (i), or
  - (iii) any document relating to a business referred to in subclause (i) is kept;
- (b) request the production for inspection of documents or things that may be relevant to the inspection;
- (c) examine or audit any document or thing produced in response to a request under clause (b);
- (d) upon giving a receipt therefor, remove from a place documents or things produced in response to a request under clause (b) for the purpose of making copies or extracts; and
- (e) examine any land, property, process or matter that may be relevant to the inspection.

Entry to  
dwellings

(2) Subsection (1) does not apply to confer a power of entry to a room actually used as a dwelling without the consent of the occupier except under the authority of a warrant issued under this section.

Warrant

(3) A justice of the peace may issue a warrant authorizing the person named in the warrant,

- (a) to do anything set out in clause (1) (a), (c), (d) or (e); or
- (b) to enter and search a room actually used as a dwelling.

(4) A warrant may be issued under subsection (3) if the justice of the peace is satisfied on information under oath that,

Requirements  
for warrant  
to issue

(a) in the case of a warrant to be issued under clause (3) (a), a person appointed under subsection 10 (1) has been prevented from doing anything permitted under clause (1) (a), (c), (d) or (e) or there is reasonable ground to believe that such a person may be prevented from doing any of those things; or

(b) in the case of a warrant to be issued under clause (3) (b), it is necessary that a room actually used as a dwelling be entered for the purposes of carrying out an inspection or there is, in such a room, a document or thing that there is reasonable ground to believe will afford evidence relevant to an inspection under this Act.

(5) A warrant issued under this section shall specify the hours and days during which it may be executed.

Execution of  
warrant

(6) Unless renewed, a warrant under this section expires not later than thirty days after the date on which it is made.

Expiry

(7) A warrant under this section may be issued or renewed upon application without notice.

Notice not  
required

(8) A warrant under this section may be renewed, before or after expiry, for any reason for which it may be issued.

Renewal of  
warrant

(9) A person doing anything under the authority of a warrant issued under this section is authorized to call on such police officers to assist and to use such force as is necessary in the execution of the warrant.

Assistance

(10) A person taking material in order to copy it shall make the copy with reasonable dispatch and shall promptly return the material taken.

Copies

(11) Copies of, or extracts from, documents and things removed under this section and certified as being true copies of, or extracts from, the originals by the person who made them are admissible in evidence to the same extent as, and have the same evidentiary value as, the documents or things of which they are copies or extracts.

Admissibility  
of copies

**12.—**(1) No person shall obstruct a person carrying out an inspection under this Act or withhold, destroy, conceal or refuse to provide any relevant information or thing required for the purpose of the inspection.

Obstruction

Facilitating  
inspection

(2) It is a condition of every project designated under this Act that the person who applied for designation of the project facilitate any inspection relating to the project.

Advisory  
committees

**13.**—(1) The Minister may appoint advisory committees to advise him or her on any matters relating to this Act.

Idem

(2) The Minister may fix the terms of reference of an advisory committee.

Idem

(3) The Minister may appoint the chairperson and members of an advisory committee and fix their remuneration and expenses.

Delegation of  
powers and  
duties

**14.** Where, under this Act, a power is granted to or vested in or a duty is imposed upon the Minister, the Minister may delegate in writing that power or the obligation to perform that duty to the Deputy Minister of Mines, to an employee of the Ministry or to any other public servant, subject to the conditions set out in the delegation.

Regulations

**15.**—(1) The Lieutenant Governor in Council may make regulations,

- (a) prescribing the eligibility conditions of any incentive program;
- (b) prescribing the evidence to be furnished by a person applying for an incentive or designation of a project;
- (c) prescribing anything that is referred to in this Act as prescribed;
- (d) defining any word or expression for the purposes of this Act and the regulations that has not already been expressly defined in this Act.

Regulations  
may be  
retroactive

(2) A regulation is, if it so provides, effective with reference to a period before it was filed.

General,  
specific or  
limited  
regulation

(3) Any regulation may be general or specific or of limited application.

Repeals

**16.** The *Ontario Mineral Exploration Program Act*, being chapter 346 of the Revised Statutes of Ontario, 1980 and section 46 of the *Equality Rights Statute Law Amendment Act, 1986*, being chapter 64, are repealed.

**17.** Despite section 16, the *Ontario Mineral Exploration Program Act*, being chapter 346 of the Revised Statutes of Ontario, 1980, continues to apply to any program of mineral exploration designated by the Minister under subsection 2 (1) of the said Act. Transition

**18.** This Act comes into force on the day it receives Royal Assent. Commence-  
ment

**19.** The short title of this Act is the *Ontario Mineral Exploration Program Act, 1989*. Short Title









# Bill 33

*(Chapter 40  
Statutes of Ontario, 1989)*

## **An Act to revise the Ontario Mineral Exploration Program Act**

**The Hon. S. Conway**  
*Minister of Mines*

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<i>1st Reading</i>	June 15th, 1989
<i>2nd Reading</i>	July 12th, 1989
<i>3rd Reading</i>	July 13th, 1989
<i>Royal Assent</i>	July 13th, 1989

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**Bill 33**

**1989**

**An Act to revise the  
Ontario Mineral Exploration Program Act**

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

**1. In this Act,**

Definitions

“development” means preparing a deposit of a prescribed mineral resource for production;

“exploration” means prospecting or exploring for a prescribed mineral resource;

“incentive” means a grant, loan, payment or other financial concession made under this Act;

“incentive program” means a program prescribed under this Act to encourage exploration or development in Ontario;

“Minister” means the Minister of Mines;

“Ministry” means the Ministry of the Minister;

“prescribed” means prescribed by the regulations;

“project” means a project of exploration or development in Ontario;

“regulations” means the regulations made under this Act.

**2.** The Lieutenant Governor in Council may make regulations to establish incentive programs. Incentive programs

**3.** The Minister may designate a project under an incentive program for a specified period. Designation of project

**4.** The Minister may provide an incentive to any person who, Incentives

- (a) is ordinarily resident in Canada; and
- (b) meets the prescribed eligibility conditions of an incentive program.

Incentive not  
assignable,  
etc.

**5.** An incentive under this Act may not be assigned charged, attached, anticipated or given as security, and any transaction purporting to assign, charge, anticipate or give as security an incentive is void.

Information  
confidential

**6.—(1)** Except as provided in subsections (2), (3) and (4), all information obtained under this Act by an employee or agent of the Ministry is privileged and confidential and no such employee or agent shall knowingly communicate or allow to be communicated to any person not legally entitled thereto any such information, or allow any person not legally entitled to do so to inspect or have access to any statement or other writing containing such information.

Exception

(2) Any information referred to in subsection (1) obtained by an employee or agent of the Ministry in the administration of this Act may be communicated to an employee of,

- (a) the Department of National Revenue of Canada; or
- (b) the Ministry of Revenue or the Ministry of Treasury and Economics.

Idem

(3) The name of a person who has received incentives under this Act and the aggregate of incentives received by the person may be published or disclosed by the Minister.

Idem

(4) One year or more after the expiry of the designation of a project designated under this Act, the Minister may disclose any technical reports, maps, plans or other particulars of the project that were submitted with any application relating to the project.

Return of  
incentive  
where not  
entitled

**7.—(1)** A person who receives an incentive to which the person is not entitled or a payment in excess of an incentive to which the person is entitled shall forthwith return to the Minister the amount or excess amount, as the case may be.

Recovery of  
incentive  
where not  
entitled

(2) If a person receives an incentive to which the person is not entitled or a payment in excess of an incentive to which the person is entitled, the amount or excess amount, as the case may be, may be recovered in any court of competent jurisdiction as a debt due to the Crown in proceedings commenced at any time, and, where applicable, the amount of

any such indebtedness may be recovered in the manner provided for in the *Financial Administration Act*.

R.S.O. 1980,  
c. 161

8.—(1) Every person is guilty of an offence who,

Offence

- (a) knowingly furnishes false or misleading information in an application or statement required by this Act or the regulations;
- (b) knowingly fails to disclose any information that is required to be disclosed by this Act or the regulations;
- (c) knowingly contravenes subsection 7 (1); or
- (d) contravenes subsection 6 (1) or 12 (1).

(2) If a corporation commits an offence under this Act, every director or officer of the corporation who authorizes, permits or acquiesces in the commission of the offence is a party to and is guilty of an offence and on conviction is liable to the penalty provided for the offence whether or not the corporation has been prosecuted or convicted.

Director or  
officer of  
corporation

(3) An individual who is convicted of an offence under this Act is liable to a fine of not more than \$5,000.

Individual

(4) A corporation that is convicted of an offence under this Act is liable to a fine of not more than \$50,000.

Corporation

(5) No proceeding in respect of an offence under this Act shall be commenced more than five years after the offence was committed.

Limitation

9.—(1) The Minister may, for any purpose relating to the administration or enforcement of this Act, require from any person whose project has been designated under this Act any information, or the production of any document, within such reasonable time as is stipulated in the request.

Request for  
information  
or document

(2) If a person does not comply within a reasonable time with a request under subsection (1), the Minister may by written notice declare the person to be ineligible for incentives.

Loss of  
eligibility  
upon failure  
to comply

(3) For purposes of section 7, a person declared under subsection (2) to be ineligible for incentives shall be deemed not to be entitled to any incentives received in respect of the project to which the request under subsection (1) relates.

Return of  
incentive



Appointment  
of persons to  
make  
inspections

**10.**—(1) The Minister may appoint persons to make inspections under this Act.

Certificate of  
appointment

(2) A person appointed under subsection (1) exercising a power under this Act shall, on request, produce his or her certificate of appointment.

Inspections

**11.**—(1) For the purpose of ensuring compliance with this Act and the regulations, a person appointed under subsection 10 (1) may,

- (a) enter any place at any reasonable time where,
  - (i) any business associated with a project designated under this Act is carried on or any property relating to such a project is kept,
  - (ii) anything is done in connection with a business referred to in subclause (i), or
  - (iii) any document relating to a business referred to in subclause (i) is kept;
- (b) request the production for inspection of documents or things that may be relevant to the inspection;
- (c) examine or audit any document or thing produced in response to a request under clause (b);
- (d) upon giving a receipt therefor, remove from a place documents or things produced in response to a request under clause (b) for the purpose of making copies or extracts; and
- (e) examine any land, property, process or matter that may be relevant to the inspection.

Entry to  
dwellings

(2) Subsection (1) does not apply to confer a power of entry to a room actually used as a dwelling without the consent of the occupier except under the authority of a warrant issued under this section.

Warrant

(3) A justice of the peace may issue a warrant authorizing the person named in the warrant,

- (a) to do anything set out in clause (1) (a), (c), (d) or (e); or
- (b) to enter and search a room actually used as a dwelling.

(4) A warrant may be issued under subsection (3) if the justice of the peace is satisfied on information under oath that,

Requirements for warrant to issue

(a) in the case of a warrant to be issued under clause (3) (a), a person appointed under subsection 10 (1) has been prevented from doing anything permitted under clause (1) (a), (c), (d) or (e) or there is reasonable ground to believe that such a person may be prevented from doing any of those things; or

(b) in the case of a warrant to be issued under clause (3) (b), it is necessary that a room actually used as a dwelling be entered for the purposes of carrying out an inspection or there is, in such a room, a document or thing that there is reasonable ground to believe will afford evidence relevant to an inspection under this Act.

(5) A warrant issued under this section shall specify the hours and days during which it may be executed.

Execution of warrant

(6) Unless renewed, a warrant under this section expires not later than thirty days after the date on which it is made.

Expiry

(7) A warrant under this section may be issued or renewed upon application without notice.

Notice not required

(8) A warrant under this section may be renewed, before or after expiry, for any reason for which it may be issued.

Renewal of warrant

(9) A person doing anything under the authority of a warrant issued under this section is authorized to call on such police officers to assist and to use such force as is necessary in the execution of the warrant.

Assistance

(10) A person taking material in order to copy it shall make the copy with reasonable dispatch and shall promptly return the material taken.

Copies

(11) Copies of, or extracts from, documents and things removed under this section and certified as being true copies of, or extracts from, the originals by the person who made them are admissible in evidence to the same extent as, and have the same evidentiary value as, the documents or things of which they are copies or extracts.

Admissibility of copies

**12.—**(1) No person shall obstruct a person carrying out an inspection under this Act or withhold, destroy, conceal or refuse to provide any relevant information or thing required for the purpose of the inspection.

Obstruction

Facilitating  
inspection

(2) It is a condition of every project designated under this Act that the person who applied for designation of the project facilitate any inspection relating to the project.

Advisory  
committees

**13.**—(1) The Minister may appoint advisory committees to advise him or her on any matters relating to this Act.

Idem

(2) The Minister may fix the terms of reference of an advisory committee.

Idem

(3) The Minister may appoint the chairperson and members of an advisory committee and fix their remuneration and expenses.

Delegation of  
powers and  
duties

**14.** Where, under this Act, a power is granted to or vested in or a duty is imposed upon the Minister, the Minister may delegate in writing that power or the obligation to perform that duty to the Deputy Minister of Mines, to an employee of the Ministry or to any other public servant, subject to the conditions set out in the delegation.

Regulations

**15.**—(1) The Lieutenant Governor in Council may make regulations,

- (a) prescribing the eligibility conditions of any incentive program;
- (b) prescribing the evidence to be furnished by a person applying for an incentive or designation of a project;
- (c) prescribing anything that is referred to in this Act as prescribed;
- (d) defining any word or expression for the purposes of this Act and the regulations that has not already been expressly defined in this Act.

Regulations  
may be  
retroactive

(2) A regulation is, if it so provides, effective with reference to a period before it was filed.

General,  
specific or  
limited  
regulation

(3) Any regulation may be general or specific or of limited application.

Repeals

**16.** The *Ontario Mineral Exploration Program Act*, being chapter 346 of the Revised Statutes of Ontario, 1980 and section 46 of the *Equality Rights Statute Law Amendment Act, 1986*, being chapter 64, are repealed.

**17.** Despite section 16, the *Ontario Mineral Exploration Program Act*, being chapter 346 of the Revised Statutes of Ontario, 1980, continues to apply to any program of mineral exploration designated by the Minister under subsection 2 (1) of the said Act. Transition

**18.** This Act comes into force on the day it receives Royal Assent. Commence-  
ment

**19.** The short title of this Act is the *Ontario Mineral Exploration Program Act, 1989*. Short title









# Bill 34

## **An Act to amend the District Municipality of Muskoka Act and the Education Act**

The Hon. J. Eakins  
*Minister of Municipal Affairs*

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*1st Reading*      June 19th, 1989  
*2nd Reading*  
*3rd Reading*  
*Royal Assent*

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## EXPLANATORY NOTES

The purpose of the Bill is to provide for the establishment of uniform upper tier and school mill rates throughout the District Area.

The District Municipality of Muskoka will be required to establish each year one uniform residential and farm mill rate and one uniform commercial mill rate to apply throughout the District Area. Each of the school boards operating within the District will also establish uniform residential and farm and uniform commercial mill rates to apply within their particular area of jurisdiction. In order to accomplish this purpose, it is necessary to introduce complementary amendments to the *Education Act*.

The Bill will also require that the portion of payment in lieu of taxes and telephone and telegraph payments received by each area municipality that relate to the requirements of the District Municipality and the school boards shall be paid directly to those bodies.

The Bill will also require that the Ministry of Revenue conduct an update of the assessment base in 1992 and at least every four years thereafter to reflect the subsequent changes in market value.

Subsections 214 (17) and 214b (4) of the *Education Act*, concerning the apportionment of sums required by public school and separate school boards, are also amended in connection with school boards with jurisdiction within The Regional Municipality of Waterloo.

## Bill 34

1989

## An Act to amend the District Municipality of Muskoka Act and the Education Act

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

**1. Section 71 of the *District Municipality of Muskoka Act*, being chapter 121 of the Revised Statutes of Ontario, 1980, is repealed and the following substituted therefor:**

**71.** In this Part,

Definitions

“commercial assessment” means the total, according to the last returned assessment roll, of,

- (a) the assessment of real property that is used as the basis for computing business assessment including the assessment for real property that is rented and occupied or used by the Crown in right of Canada or any province or any board, commission, corporation or other agency thereof, or by any municipal corporation or the District Corporation or local board thereof,
- (b) business assessment, and
- (c) the assessment for mineral lands, pipe lines and railway lands, other than railway lands actually in use for residential and farming purposes;

“district rating by-law” means a by-law passed under subsection 74 (2);

“public school board” means a divisional board, as defined in paragraph 19 of subsection 1 (1) of the *Education Act*, that has jurisdiction in the District Area;

R.S.O. 1980,  
c. 129

“rateable property” includes business and other assessment made under the *Assessment Act*;

R.S.O. 1980,  
c. 31

“residential and farm assessment” means the total assessment for real property according to the last returned assessment roll except the assessments for real property mentioned in clauses (a) and (c) of the definition of “commercial assessment”;

R.S.O. 1980,  
c. 129

“separate school board” means a separate school board, as defined in paragraph 59a of subsection 1 (1) of the *Education Act*, that has jurisdiction in the District Area;

“weighted assessment” means, for the relevant area, the total of,

- (a) the product obtained by multiplying the residential and farm assessment by 85 per cent, and
- (b) the commercial assessment.

**2. Section 74 of the said Act, as amended by the Statutes of Ontario, 1984, chapter 45, section 14, and sections 75, 76, 77 and 78 are repealed and the following substituted therefor:**

Definition

**74.—(1)** In this section, “general district levy” means a sum sufficient,

- (a) for payment of the estimated current annual expenditures as adopted under section 73; and
- (b) for payment of all debts of the District Corporation falling due within the year as well as amounts required to be raised for sinking funds and principal and interest payments or sinking fund requirements in respect of debenture debt of area municipalities for the payment of which the District Corporation is liable under this Act,

but excludes those amounts for water and sewage purposes that are to be raised by a special rate or rates in accordance with sections 24 and 25.

District  
rating by-law

(2) For purposes of raising the general district levy, the District Council, on or before the 30th day of June in 1989 and on or before the 31st day of March in each subsequent year, shall pass a by-law directing the council of each area municipality to levy a separate rate, as specified in the by-law, on the residential and farm assessment in the area municipality rateable for district purposes and on the commercial assessment in the area municipality rateable for district purposes.

(3) The rate that the District Council shall direct to be levied in each year on commercial assessment under subsection (2) shall be determined by multiplying the general district levy by 1,000 and dividing the product by the weighted assessments for all the area municipalities.

Determin-  
ation of  
commercial  
rate

(4) The rate that the District Council shall direct to be levied on the residential and farm assessment under subsection (2) shall be 85 per cent of the rate that it directs to be levied on commercial assessment.

Determin-  
ation of  
residential  
rate

(5) In each year, the council of each area municipality shall levy, in accordance with the district rating by-law passed for that year, the rates specified in the by-law.

Area muni-  
cipality to  
adopt rates

(6) The assessment for real property that is exempt from taxation for district purposes by virtue of any Act or by virtue of a by-law passed by the council of an area municipality under any Act shall not be included when determining the total of the weighted assessment for the purposes of subsection (3).

Tax-exempt  
real property

(7) The full value of all rateable property shall be used in determining,

Full value to  
be used

(a) the rates to be levied under subsections (3) and (4); and

(b) the assessment on which the levy shall be made under subsection (5),

and, notwithstanding any other Act, but subject to section 22 of the *Assessment Act*, no fixed assessment applies thereto.

R.S.O. 1980,  
c. 31

(8) A district rating by-law shall specify the amount to be raised in an area municipality as a result of a levy being made in that area municipality in accordance with the by-law and the by-law,

Instalment  
and advance  
payments

(a) may require specified portions of that amount to be paid to the treasurer of the District Corporation on or before specified dates; and

(b) may provide that the District Corporation shall pay interest at a rate to be determined by the District Council on any payment required, or portion thereof, made in advance by any area municipality.

(9) The amount specified to be raised in an area municipality pursuant to a district rating by-law shall be deemed to be

Payment



taxes and is a debt of the area municipality to the District Corporation and the treasurer of the area municipality shall pay the amount owing by the area municipality to the treasurer of the District Corporation on or before the dates and in the portions specified in the district rating by-law.

Default

(10) If an area municipality fails to make any payment, or portion thereof, as provided in the district rating by-law, the area municipality shall pay to the District Corporation interest on the amount in default at the rate of 15 per cent per annum from the due date of the payment, or such lower rate as the District Council may by by-law determine, from the date payment is due until it is made.

Extension of time

(11) The Minister by order may extend the time for passing a district rating by-law in any year and such an order may be made notwithstanding that the time limit set out in subsection (2) has expired.

Determination of school rates

**74a.**—(1) In each year, The Muskoka Board of Education, The Nipissing District Roman Catholic Separate School Board, The Simcoe County Roman Catholic Separate School Board and The West Parry Sound Board of Education shall determine for the part of an area municipality which is within the area of jurisdiction of the board the rates to be levied by the applicable area municipality to provide the sums required for elementary and secondary school purposes, as the case may be, in that year and shall specify the amount that is to be provided in that year by the application of those rates.

Idem

R.S.O. 1980,  
c. 129

(2) The determinations required by subsection (1) shall be made in accordance with subsection 222 (1) of the *Education Act*.

Direction to area municipalities

(3) On or before the 1st day of March in each year, The Muskoka Board of Education, The Nipissing District Roman Catholic Separate School Board, The Simcoe County Roman Catholic Separate School Board and The West Parry Sound Board of Education shall direct the council of each applicable area municipality to levy the rates determined by the particular board under subsection (1) in respect of the area municipality or the part thereof which is within the area of jurisdiction of the board and shall advise the area municipality of the amount of money to be raised by levying those rates.

Area municipality to levy and collect

(4) In each year, the council of an area municipality shall levy rates in accordance with the directions under subsection (3) upon all property in the area municipality rateable for public school board or separate school board purposes, as may be appropriate.

(5) The full value of all applicable rateable property shall be used in determining,

Full value to be used

(a) the weighted assessment for each area municipality for purposes of apportioning among the applicable area municipalities the sums required for school purposes by the school boards mentioned in subsection (3);

(b) the rates mentioned in subsection (1); and

(c) the assessment upon which the rates are to be levied under sections 128, 133 and 215 of the *Education Act*,

R.S.O. 1980,  
cc. 129, 31

and notwithstanding any other Act, but subject to section 22 of the *Assessment Act*, no fixed assessment applies thereto.

(6) For the purposes of determining and levying rates under this section, a reference in the *Education Act* to "commercial assessment" or "residential and farm assessment" shall be deemed to be a reference to such assessments as defined in this Part and not as defined in section 220 of that Act.

Definitions in  
R.S.O. 1980,  
c. 129, s. 220

(7) Subsection 219 (2) of the *Education Act* does not apply to the determination of rates under subsection (1).

Non-application of  
R.S.O. 1980,  
c. 129,  
s. 219 (2)

(8) Except as provided in this section, the *Education Act* continues to apply to the levying of rates and collecting of taxes for each public school board and separate school board having jurisdiction in part of the District Area.

Application of  
R.S.O. 1980,  
c. 129

**74b.—**(1) In this section,

Definitions

"area municipality levy" means the amount required for area municipality purposes under section 164 of the *Municipal Act*, including the sums required for any board, commission or other body, but excluding those amounts required to be raised for district and school purposes;

R.S.O. 1980,  
c. 302

"special area municipality levy" means an amount to be raised by an area municipality that is not included in the area municipality levy, but excluding those amounts required to be raised for district and school purposes.

(2) The council of each area municipality, in each year in accordance with subsections (3) and (4), shall levy separate rates on the whole of the rateable commercial assessment and on the whole of the rateable residential and farm assessment

Area municipality levies

in respect of the area municipality levy and the special area municipality levy.

Determina-  
tion of  
commercial  
rates

(3) The rates to be levied in each year on commercial assessment for each separate levy specified in subsection (2) shall be determined by multiplying the sum required for each such levy by 1,000 and dividing the product,

- (a) by the weighted assessment for the area municipality, in the case of an area municipality levy; and
- (b) by the weighted assessment determined on the basis of the assessment that is rateable for the purpose of raising the special area municipality levy, in the case of a special area municipality levy.

Determina-  
tion of  
residential  
rates

(4) The rates to be levied in each year on residential and farm assessment for each separate levy specified in subsection (2) shall be 85 per cent of the rate to be levied on commercial assessment in accordance with subsection (3).

Non-  
application of  
R.S.O. 1980,  
c. 302, s. 158  
and c. 359,  
s. 7

(5) Section 158 of the *Municipal Act* and section 7 of the *Ontario Unconditional Grants Act* do not apply to an area municipality.

Area municipi-  
pality levy

(6) A reference in any other Act to a levy by a local municipality under section 158 of the *Municipal Act* shall, with respect to an area municipality, be deemed to be a reference to a levy under this section.

Tax-exempt  
real property

(7) The assessment for real property that is exempt from taxation for area municipality purposes by virtue of any Act or by virtue of a by-law passed by the council of an area municipality under any Act shall not be included when determining the weighted assessment for purposes of clause (3) (a) or (b).

Interim  
financing,  
District  
Council

**74c.**—(1) The District Council, before the adoption of the estimates for the year, may by by-law requisition from each area municipality a sum not exceeding 50 per cent of the amount that under subsection 74 (8) was, in the district rating by-law for the preceding year, specified to be raised in the particular area municipality and subsections 74 (8), (9) and (10) apply with necessary modifications to the amount requisitioned.

Final  
instalment  
reduced

(2) The amount of any requisition made under subsection (1) in any year upon an area municipality shall be deducted when determining the amount of the portions to be paid in



that year by the area municipality to the treasurer of the District Corporation under the district rating by-law authorized by clause 74 (8) (a).

**74d.**—(1) The council of an area municipality may for any year, before the adoption of the estimates for the year, levy such rates as it may determine on the rateable commercial assessment and on the rateable residential and farm assessment in the area municipality.

Interim  
financing,  
area muni-  
cipalities

(2) A by-law for levying rates under subsection (1) shall be passed in the year that the rates are to be levied or may be passed in December of the preceding year if it provides that it does not come into force until a specified day in the following year.

By-law in  
December of  
preceding  
year

(3) The rate that may be levied on any assessment under subsection (1) shall not exceed 50 per cent of the total of the rates that were levied or would have been levied on that assessment for all purposes in the preceding year.

Determi-  
nation of  
rate

(4) If the assessment roll for taxation in the current year has not been returned, the rate levied under subsection (1) may be levied on the assessment according to the assessment roll used for taxation purposes in the preceding year.

Assessment  
roll

(5) The amount of any levy made on an assessment under subsection (1) shall be deducted from the total amount levied on that assessment for that year under sections 74, 74a and 74b.

Interim levy  
deducted  
from final  
levy

(6) If the taxes levied on an assessment for real property or on a business assessment under this section exceed the taxes to be levied on that assessment for the year under sections 74, 74a and 74b, the treasurer of the area municipality shall, not later than twenty-one days following the giving of a notice of demand of taxes payable, refund to the person assessed that portion of the taxes paid in excess of the amount payable for the year pursuant to a levy made under sections 74, 74a and 74b.

Interim levy  
in excess of  
final levy

(7) The provisions of the *Municipal Act* with respect to the levy of rates and the collection of taxes apply with necessary modifications to the levy of rates and collection of taxes under this section.

Application  
of  
R.S.O. 1980,  
c. 302

**74e.** If a direction has been made under subsection 78 (1) that a new assessment roll be returned for taxation in the current year, the Minister by order,

Power of  
Minister



- (a) may prescribe the maximum sum that may be requisitioned from each area municipality under subsection 74c (1); and
- (b) may prescribe the maximum rates that may be levied by the council of each area municipality under subsection 74d (1).

## Definitions

**75.—(1)** In this section,

“payment in lieu of taxes” means an amount that an area municipality is eligible to receive under,

- R.S.O. 1980,  
c. 31 (a) subsection 26 (3), (4) or (5) of the *Assessment Act*,
- R.S.O. 1980,  
c. 209 (b) subsection 7 (6) of the *Housing Development Act*, but not including that portion payable to a school board in accordance with subsection 7 (10) of that Act,
- R.S.O. 1980,  
c. 302 (c) section 160 and subsection 160a (3) of the *Municipal Act*,
- R.S.O. 1980,  
c. 311 (d) subsection 4 (1), (2) or (3) of the *Municipal Tax Assistance Act*,
- R.S.O. 1980,  
c. 361 (e) section 42 of the *Ontario Water Resources Act*,
- R.S.O. 1980,  
c. 384 (f) subsection 46 (2), (3), (4) or (5) of the *Power Corporation Act*, but not including that portion payable to a school board in accordance with subsection 46 (9) of that Act,
- R.S.O. 1980,  
c. 510 (g) section 10 or 11 of the *Trees Act*,
- R.S.C. 1985,  
c. M-13 (h) the *Municipal Grants Act* (Canada), or
- (i) any Act of Ontario or of Canada or any agreement where the payment is from any government or government agency and is in lieu of taxes on real property or business assessment, but not including a payment referred to in sections 498 and 498a of the *Municipal Act*;

“taxes for district purposes” means the sum of the taxes levied by an area municipality for district purposes as specified in the district rating by-law under subsection 74 (2) and in respect of water and sewer purposes under sections 24 and 25, excluding any adjustments under section 32 or 33 of the *Assessment Act*;

“taxes for local purposes” means the taxes levied by an area municipality for local purposes under subsection 74b (2), excluding any adjustments under section 32 or 33 of the *Assessment Act*;

R.S.O. 1980,  
c. 31

“total taxes for all purposes” means the sum of the taxes for local purposes, the taxes for district purposes and the taxes levied by the area municipality for school purposes under subsection 74a (1), excluding any adjustments under section 32 or 33 of the *Assessment Act*.

(2) If an area municipality is eligible to receive a payment in lieu of taxes for any year, it shall pay to the treasurer of the District Corporation a portion equal to the amount obtained by multiplying the amount that the area municipality is eligible to receive by the quotient, correct to five decimal places, obtained by dividing the taxes for district purposes for the year by the total of,

Area municipalities to share payments in lieu of taxes

(a) the taxes for local purposes for the year; and

(b) the taxes for district purposes for the year.

(3) Notwithstanding subsection (2), if an area municipality is eligible to receive a payment in lieu of taxes for any year under,

Sharing of certain payments

(a) subsection 26 (3), (4) or (5) of the *Assessment Act*;

(b) section 42 of the *Ontario Water Resources Act*;

R.S.O. 1980,  
c. 361

(c) subsection 46 (2), (3), (4) or (5) of the *Power Corporation Act*, but not including that portion payable to a school board in accordance with subsection 46 (9) of that Act;

R.S.O. 1980,  
c. 384

(d) section 10 or 11 of the *Trees Act*; or

R.S.O. 1980,  
c. 510

(e) the *Municipal Grants Act* (Canada),

R.S.C. 1985,  
c. M-13

and the calculation of the payment is based in part on the rates that were levied for school purposes, then the portion to be paid under subsection (2) shall be calculated by multiplying the amount that the area municipality is eligible to receive by the quotient, correct to five decimal places, obtained by dividing the taxes for district purposes for the year by the total taxes for all purposes for the year.

(4) The treasurer of each area municipality shall, on or before the 1st day of March in each year, send a statement to

Treasurer to provide estimate of share

the treasurer of the District Corporation and each school board showing an estimate of the amount that the area municipality will be required to pay to the District Corporation for the year under subsection (2) and to each school board under subsection 7 (10) of the *Housing Development Act* and under subsection 46 (9) of the *Power Corporation Act*.

R.S.O. 1980,  
cc. 209, 384

Allocation of  
payments in  
lieu of taxes

(5) If an area municipality is required to pay a portion of a payment in lieu of taxes to the District Corporation under subsection (2), or to a school board, the provisions of,

R.S.O. 1980,  
c. 31

(a) subsections 26 (7) and (9) of the *Assessment Act*;

(b) subsection 7 (10) of the *Housing Development Act*;

R.S.O. 1980,  
c. 302

(c) subsections 160 (12) and (16) and subsection 160a (4) of the *Municipal Act*; and

(d) subsection 46 (7) of the *Power Corporation Act*,

with respect to the equalization of assessment or allocation and deposit of payments shall not apply to that entitlement.

Payment of  
portion of  
telephone  
and telegraph  
tax

**76.**—(1) Each area municipality shall pay a portion of the tax levied by it under subsections 161 (12) and (13) of the *Municipal Act* to the District Corporation and the appropriate public school boards in the proportion that the taxes levied by it on commercial assessment in the year for each such body bears to the total taxes levied by it in the year on commercial assessment for all purposes, other than separate school board purposes.

Exclusion of  
taxes added  
to collector's  
roll

(2) In determining the taxes levied on commercial assessment under subsection (1), there shall be excluded any adjustments under section 32 or 33 of the *Assessment Act*.

Statement by  
treasurer

(3) The treasurer of each area municipality shall, on or before the 1st day of March in each year, send a statement to the treasurer of the District Corporation and the appropriate public school boards showing an estimate of the amount which the area municipality will be required to pay to that body for the year under subsection (1).

Exclusion of  
R.S.O. 1980,  
c. 302,  
s. 161 (18-24)

(4) Subsections 161 (18) to (24) of the *Municipal Act* do not apply if payments are made by an area municipality under subsection (1).

Payment in  
lieu and  
telephone  
and telegraph  
levies

**77.**—(1) An amount payable by an area municipality to,



- (a) the District Corporation under subsection 75 (2) or 76 (1);
- (b) a public school board under subsection 76 (1); or
- (c) a school board under subsection 7 (10) of the *Housing Development Act* or under subsection 46 (9) of the *Power Corporation Act*, R.S.O. 1980,  
cc. 209, 384

is a debt of the area municipality to the District Corporation or school board, as the case may be, and, subject to subsections (2) and (3), instalments are payable on account thereof as follows:

1. A first instalment of 25 per cent of the amount payable for the same purposes in the preceding year, on or before the 31st day of March.
2. A second instalment of 25 per cent of the amount payable for the same purposes in the preceding year, on or before the 30th day of June.
3. A third instalment of 25 per cent of the amount payable for the same purposes in the preceding year, on or before the 30th day of September.
4. A fourth instalment of the balance of the entitlement for the year, on or before the 15th day of December.

(2) The District Council may by by-law provide for an alternative number of instalments and due dates for amounts payable by area municipalities to the District Corporation under subsection (1). Alternative  
payment  
schedule

(3) If a school board having jurisdiction within the District Area has established an agreement which applies to one or more area municipalities in accordance with subsection 215 (3) of the *Education Act*, the number of instalments and due dates specified in that agreement shall apply with necessary modifications to those amounts otherwise payable to the school board under subsection (1). Idem  
  
R.S.O. 1980,  
c. 129

(4) An amount payable by an area municipality under subsection 75 (2) or 76 (1) or under subsection 7 (10) of the *Housing Development Act* or under subsection 46 (9) of the *Power Corporation Act* shall be credited by the District Corporation or school board to its general revenues. General  
revenues  
  
R.S.O. 1980,  
cc. 209, 384



## Default

(5) If an area municipality fails to make any payment as provided under subsection (1) or as altered under subsection (2) or (3), the area municipality shall pay to the District Corporation or school board, as applicable, interest on the amount past due at the rate of 15 per cent per annum, or at such lower rate as the school board or District Corporation may by by-law determine from time to time.

## Overpayment

(6) If the total amount paid for the year under subsection (1), (2) or (3) exceeds the total amount payable for that purpose in the year, the area municipality shall notify the District Corporation or the school board, as the case may be, of the amount of the overpayment and the District Corporation or school board shall forthwith pay that amount to the area municipality.

District-wide  
assessment  
update

**78.**—(1) If the Minister of Revenue considers that any parcel or parcels of real property within the District Area are assessed inequitably with respect to the assessment of any other parcel or parcels of real property in the District Area, the Minister of Revenue may direct that such changes be made in the assessment to be contained in the assessment roll next to be returned for each area municipality as will, in the opinion of the Minister of Revenue, eliminate or reduce inequalities in the assessment of real property in the District Area.

Date for new  
assessment  
roll

(2) If a direction is made under subsection (1), the Minister of Revenue may, for that purpose, name a day upon which the assessment commissioner for the District Area shall return a new assessment roll for the assessment at market value of real property in all area municipalities in the District Area.

When  
direction  
effective

(3) A direction under subsection (1) is effective upon publication of a notice of the direction in *The Ontario Gazette*.

Application  
of new  
assessment  
roll

(4) If the assessment roll of an area municipality for taxation in any year is changed pursuant to a direction of the Minister of Revenue under subsection (1),

(a) the assessment roll to be returned for that area municipality for taxation in that year shall be the assessment roll as so changed and not the assessment roll that would otherwise have been returned; and

(b) the assessment roll to be returned in each year following that year shall be the assessment roll returned under clause (a) as amended, added to, or otherwise altered under the *Assessment Act* up to

the date when the assessment roll is returned in each such following year.

(5) Notwithstanding subsection (4), if the assessor is of the opinion that an assessment to be shown on the assessment roll to be returned is inequitable with respect to the assessment of similar real property in the vicinity, the assessor may alter the value of the assessment to the extent necessary to make the assessment equitable with the assessment of such similar real property.

Exception

(6) For the purpose of every Act, the assessment roll of an area municipality returned under subsection (4) shall be deemed to be the assessment roll of the area municipality returned under the *Assessment Act*.

Status of assessment roll

R.S.O. 1980, c. 31

(7) In 1992 for purposes of taxation in 1993, the Minister of Revenue shall make a direction under subsection (1) for changes to be made to the assessment rolls of the area municipalities.

Mandatory return of updated roll in 1992

(8) In every fourth year following the most recent direction under subsection (1), the Minister of Revenue shall make a direction under subsection (1) for changes to be made to the assessment rolls of the area municipalities.

Mandatory return of updated roll every fourth year

(9) The Minister of Revenue shall not make a direction under subsection (1) unless the District Council by resolution has requested that a direction be made, but a resolution is not required for a direction of the Minister of Revenue required under subsection (7) or (8).

Resolution required

(10) Except as provided in subsections (1) and (11), the *Assessment Act* and the alterations, corrections, additions and amendments authorized by that Act apply to an assessment roll returned under subsection (4).

Provisions of R.S.O. 1980, c. 31

(11) Subsections 63 (1) and (3) and sections 64 and 65 of the *Assessment Act* do not apply to an area municipality or to the assessment roll of any area municipality in respect of 1989 and subsequent years.

Idem

(12) The Assessment Review Board, the Municipal Board or any court, in determining the value at which any real property shall be assessed in any complaint, appeal, proceeding or action, shall have reference to the value at which similar real property in the vicinity is assessed, and the amount of any assessment of real property shall not be altered unless the Assessment Review Board, Municipal Board or court is satisfied that the assessment is inequitable with respect to the

Powers on appeal

assessment of similar real property in the vicinity, and in that event the assessment of the real property shall not be altered to any greater extent than is necessary to make the assessment equitable with the assessment of such similar real property.

No amendment  
to collector's  
roll  
R.S.O. 1980,  
c. 31

(13) No amendment shall be made to the assessment or a collector's roll under clause 33 (a) of the *Assessment Act* until the cumulative value of the increase since the date of the most recent change to the assessment roll under a direction of the Minister of Revenue under subsection (1) is at least in the sum of \$5,000 at market value.

Table of  
rates for pipe  
lines

(14) For purposes of subsection 24 (16) of the *Assessment Act*, changes made in the assessment roll of an area municipality under a direction of the Minister of Revenue under subsection (1) shall be deemed to be an assessment update of all property within the area municipality under section 70 of the *Assessment Act*.

Rights of  
appeal  
preserved

(15) Nothing in section 74, 74a or 74b in any way deprives any person of any right of appeal provided for in the *Assessment Act* or affects the operation of subsection 36 (6) of that Act.

Direction  
may be  
retroactive

(16) A direction made under subsection (1) may be made retroactive to the 1st day of December of the year preceding the year in which it was made.

**3. Subsection 82 (3) of the said Act is repealed and the following substituted therefor:**

Pollution  
control fund

(3) The District Council shall establish and maintain a pollution control fund and shall contribute to such fund, in each year, the sum equivalent to a sum calculated at one-quarter of one mill in the dollar upon the total residential and farm assessment and commercial assessment for all area municipalities in that year.

Transition  
R.S.O. 1980,  
cc. 302, 129

**4. Notwithstanding subsection 164 (2) of the *Municipal Act* or subsection 216 (2) of the *Education Act*, if the amount levied by an area municipality for district purposes or school purposes in 1988 differs from the sum the area municipality ought to have levied for district purposes or school purposes, the area municipality shall debit or credit such deficit or surplus, as applicable, to the general funds of the municipality and not revise the rates to be levied for such body in 1989.**

Transition

R.S.O. 1980,  
c. 121

**5.—(1) Nothing in this Act affects the validity of an interim levy made by the District Council or by the council of an area municipality under section 76 of the *District Municipality of***



***Muskoka Act* as it existed before the coming into force of this Act.**

(2) Subsections 74 (8), (9) and (10), as re-enacted by section 2 of this Act, and subsection 74c (2), as enacted by section 2 of this Act, of the *District Municipality of Muskoka Act* apply with necessary modifications to an interim levy made by the District Council in 1989. Idem  
R.S.O. 1980,  
c. 121

(3) Subsections 74d (4), (5) and (6), as enacted by section 2 of this Act, of the *District Municipality of Muskoka Act* apply with necessary modifications to an interim levy made by an area municipality in 1989. Idem

**6.—(1) Subsection 130 (10) of the *Education Act*, being chapter 129 of the Revised Statutes of Ontario, 1980, as re-enacted by the Statutes of Ontario, 1988, chapter 23, section 8, is repealed and the following substituted therefor:**

(10) This section does not apply to The Haldimand-Norfolk Roman Catholic Separate School Board, The Nipissing District Roman Catholic Separate School Board, The Simcoe County Roman Catholic Separate School Board, The Sudbury District Roman Catholic Separate School Board, The Waterloo County Roman Catholic Separate School Board or to a separate school board having jurisdiction wholly or partly in a county where an assessment update has been carried out under subsection 368b (2) of the *Municipal Act*. Non-application  
R.S.O. 1980,  
c. 302

(2) Subsection 214 (7) of the said Act, as enacted by the Statutes of Ontario, 1988, chapter 46, section 2, is repealed.

(3) Subsection 214 (17) of the said Act, as enacted by the Statutes of Ontario, 1988, chapter 46, section 2, is repealed and the following substituted therefor:

(17) Subsections (2) to (16) do not apply to an area municipality in The District Municipality of Muskoka, The Regional Municipality of Haldimand-Norfolk, The Regional Municipality of Sudbury, The Regional Municipality of Waterloo or to a local municipality in a county where an assessment update has been carried out under subsection 368b (2) of the *Municipal Act*. Non-application

(4) Clause 214b (2) (b) of the said Act, as re-enacted by the Statutes of Ontario, 1988, chapter 23, section 8, is repealed and the following substituted therefor:



- (b) The District Municipality of Muskoka, The Regional Municipality of Haldimand-Norfolk or The Regional Municipality of Waterloo.

(5) Subsection 214b (4) of the said Act, as enacted by the Statutes of Ontario, 1987, chapter 17, section 3, is amended by striking out "The Regional Municipality of Haldimand-Norfolk" in the ninth and tenth lines and inserting in lieu thereof "The District Municipality of Muskoka, The Regional Municipality of Haldimand-Norfolk or The Regional Municipality of Waterloo".

(6) Subsection 222 (4) of the said Act, as re-enacted by the Statutes of Ontario, 1988, chapter 23, section 8, is repealed and the following substituted therefor:

Non-application

(4) Subsection (2) does not apply to an area municipality in The District Municipality of Muskoka, The Regional Municipality of Haldimand-Norfolk, The Regional Municipality of Sudbury, The Regional Municipality of Waterloo or a local municipality in a county where an assessment update has been carried out under subsection 368b (2) of the *Municipal Act*.

(7) Section 225 of the said Act, as re-enacted by the Statutes of Ontario, 1988, chapter 23, section 8, is repealed and the following substituted therefor:

Conflict

R.S.O. 1980,  
cc. 121, 435,  
441, 442,  
302

**225.** In the event of a conflict between any provision in sections 220 to 224 and any provision in any other Act, other than the *District Municipality of Muskoka Act*, the *Regional Municipality of Haldimand-Norfolk Act*, the *Regional Municipality of Sudbury Act*, the *Regional Municipality of Waterloo Act* and section 368d of the *Municipal Act*, the provisions in sections 220 to 224 prevail.

Commencement

**7.** This Act shall be deemed to have come into force on the 1st day of January, 1989.

Short title

**8.** The short title of this Act is the *District Municipality of Muskoka Statute Law Amendment Act, 1989*.





# Bill 34

## **An Act to amend the District Municipality of Muskoka Act and the Education Act**

**The Hon. J. Sweeney**  
*Minister of Municipal Affairs*

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<i>1st Reading</i>	June 19th, 1989
<i>2nd Reading</i>	December 14th, 1989
<i>3rd Reading</i>	
<i>Royal Assent</i>	

*(Reprinted as amended by the Committee of the Whole House)*

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## EXPLANATORY NOTES

The purpose of the Bill is to provide for the establishment of uniform upper tier and school mill rates throughout the District Area.

The District Municipality of Muskoka will be required to establish each year one uniform residential and farm mill rate and one uniform commercial mill rate to apply throughout the District Area. Each of the school boards operating within the District will also establish uniform residential and farm and uniform commercial mill rates to apply within their particular area of jurisdiction. In order to accomplish this purpose, it is necessary to introduce complementary amendments to the *Education Act*.

The Bill will also require that the portion of payment in lieu of taxes and telephone and telegraph payments received by each area municipality that relate to the requirements of the District Municipality and the school boards shall be paid directly to those bodies.

The Bill will also require that the Ministry of Revenue conduct an update of the assessment base in 1992 and at least every four years thereafter to reflect the subsequent changes in market value.

Subsections 214 (17) and 214b (4) of the *Education Act*, concerning the apportionment of sums required by public school and separate school boards, are also amended in connection with school boards with jurisdiction within The Regional Municipality of Waterloo.

## Bill 34

1989

## An Act to amend the District Municipality of Muskoka Act and the Education Act

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

**1. Section 71 of the *District Municipality of Muskoka Act*, being chapter 121 of the Revised Statutes of Ontario, 1980, is repealed and the following substituted therefor:**

**71. In this Part,**

**Definitions**

“commercial assessment” means the total, according to the last returned assessment roll, of,

- (a) the assessment of real property that is used as the basis for computing business assessment including the assessment for real property that is rented and occupied or used by the Crown in right of Canada or any province or any board, commission, corporation or other agency thereof, or by any municipal corporation or the District Corporation or local board thereof,
- (b) business assessment, and
- (c) the assessment for mineral lands, pipe lines and railway lands, other than railway lands actually in use for residential and farming purposes;

“district rating by-law” means a by-law passed under subsection 74 (2);

“public school board” means a divisional board, as defined in paragraph 19 of subsection 1 (1) of the *Education Act*, that has jurisdiction in the District Area;

R.S.O. 1980,  
c. 129

“rateable property” includes business and other assessment made under the *Assessment Act*;

R.S.O. 1980,  
c. 31

“residential and farm assessment” means the total assessment for real property according to the last returned assessment roll except the assessments for real property mentioned in clauses (a) and (c) of the definition of “commercial assessment”;

R.S.O. 1980,  
c. 129

“separate school board” means a separate school board, as defined in paragraph 59a of subsection 1 (1) of the *Education Act*, that has jurisdiction in the District Area;

“weighted assessment” means, for the relevant area, the total of,

- (a) the product obtained by multiplying the residential and farm assessment by 85 per cent, and
- (b) the commercial assessment.

**2. Section 74 of the said Act, as amended by the Statutes of Ontario, 1984, chapter 45, section 14, and sections 75, 76, 77 and 78 are repealed and the following substituted therefor:**

Definition

**74.—(1)** In this section, “general district levy” means a sum sufficient,

- (a) for payment of the estimated current annual expenditures as adopted under section 73; and
- (b) for payment of all debts of the District Corporation falling due within the year as well as amounts required to be raised for sinking funds and principal and interest payments or sinking fund requirements in respect of debenture debt of area municipalities for the payment of which the District Corporation is liable under this Act,

but excludes those amounts for water and sewage purposes that are to be raised by a special rate or rates in accordance with sections 24 and 25.

District  
rating by-law

(2) For purposes of raising the general district levy, the District Council, on or before the 30th day of June in 1989 and on or before the 31st day of March in each subsequent year, shall pass a by-law directing the council of each area municipality to levy a separate rate, as specified in the by-law, on the residential and farm assessment in the area municipality rateable for district purposes and on the commercial assessment in the area municipality rateable for district purposes.

(3) The rate that the District Council shall direct to be levied in each year on commercial assessment under subsection (2) shall be determined by multiplying the general district levy by 1,000 and dividing the product by the weighted assessments for all the area municipalities.

Determin-  
ation of  
commercial  
rate

(4) The rate that the District Council shall direct to be levied on the residential and farm assessment under subsection (2) shall be 85 per cent of the rate that it directs to be levied on commercial assessment.

Determin-  
ation of  
residential  
rate

(5) In each year, the council of each area municipality shall levy, in accordance with the district rating by-law passed for that year, the rates specified in the by-law.

Area muni-  
cipality to  
adopt rates

(6) The assessment for real property that is exempt from taxation for district purposes by virtue of any Act or by virtue of a by-law passed by the council of an area municipality under any Act shall not be included when determining the total of the weighted assessment for the purposes of subsection (3).

Tax-exempt  
real property

(7) The full value of all rateable property shall be used in determining,

Full value to  
be used

(a) the rates to be levied under subsections (3) and (4);  
and

(b) the assessment on which the levy shall be made  
under subsection (5),

and, notwithstanding any other Act, but subject to section 22 of the *Assessment Act*, no fixed assessment applies thereto.

R.S.O. 1980,  
c. 31

(8) A district rating by-law shall specify the amount to be raised in an area municipality as a result of a levy being made in that area municipality in accordance with the by-law and the by-law,

Instalment  
and advance  
payments

(a) may require specified portions of that amount to be paid to the treasurer of the District Corporation on or before specified dates; and

(b) may provide that the District Corporation shall pay interest at a rate to be determined by the District Council on any payment required, or portion thereof, made in advance by any area municipality.

(9) The amount specified to be raised in an area municipality pursuant to a district rating by-law shall be deemed to be

Payment



taxes and is a debt of the area municipality to the District Corporation and the treasurer of the area municipality shall pay the amount owing by the area municipality to the treasurer of the District Corporation on or before the dates and in the portions specified in the district rating by-law.

Default

(10) If an area municipality fails to make any payment, or portion thereof, as provided in the district rating by-law, the area municipality shall pay to the District Corporation interest on the amount in default at the rate of 15 per cent per annum from the due date of the payment, or such lower rate as the District Council may by by-law determine, from the date payment is due until it is made.

Extension of time

(11) The Minister by order may extend the time for passing a district rating by-law in any year and such an order may be made notwithstanding that the time limit set out in subsection (2) has expired.

Determination of school rates

**74a.**—(1) In each year, The Muskoka Board of Education, The Nipissing District Roman Catholic Separate School Board, The Simcoe County Roman Catholic Separate School Board and The West Parry Sound Board of Education shall determine for the part of an area municipality which is within the area of jurisdiction of the board the rates to be levied by the applicable area municipality to provide the sums required for elementary and secondary school purposes, as the case may be, in that year and shall specify the amount that is to be provided in that year by the application of those rates.

Idem

R.S.O. 1980,  
c. 129

(2) The determinations required by subsection (1) shall be made in accordance with subsection 222 (1) of the *Education Act*.

Direction to area municipalities

(3) On or before the 1st day of March in each year, The Muskoka Board of Education, The Nipissing District Roman Catholic Separate School Board, The Simcoe County Roman Catholic Separate School Board and The West Parry Sound Board of Education shall direct the council of each applicable area municipality to levy the rates determined by the particular board under subsection (1) in respect of the area municipality or the part thereof which is within the area of jurisdiction of the board and shall advise the area municipality of the amount of money to be raised by levying those rates.

Area municipality to levy and collect

(4) In each year, the council of an area municipality shall levy rates in accordance with the directions under subsection (3) upon all property in the area municipality rateable for public school board or separate school board purposes, as may be appropriate.

(5) The full value of all applicable rateable property shall be used in determining, Full value to be used

(a) the weighted assessment for each area municipality for purposes of apportioning among the applicable area municipalities the sums required for school purposes by the school boards mentioned in subsection (3);

(b) the rates mentioned in subsection (1); and

(c) the assessment upon which the rates are to be levied under sections 128, 133 and 215 of the *Education Act*, R.S.O. 1980, cc. 129, 31

and notwithstanding any other Act, but subject to section 22 of the *Assessment Act*, no fixed assessment applies thereto.

(6) For the purposes of determining and levying rates under this section, a reference in the *Education Act* to "commercial assessment" or "residential and farm assessment" shall be deemed to be a reference to such assessments as defined in this Part and not as defined in section 220 of that Act. Definitions in R.S.O. 1980, c. 129, s. 220

(7) Subsection 219 (2) of the *Education Act* does not apply to the determination of rates under subsection (1). Non-application of R.S.O. 1980, c. 129, s. 219 (2)

(8) Except as provided in this section, the *Education Act* continues to apply to the levying of rates and collecting of taxes for each public school board and separate school board having jurisdiction in part of the District Area. Application of R.S.O. 1980, c. 129

**74b.—(1)** In this section,

Definitions

"area municipality levy" means the amount required for area municipality purposes under section 164 of the *Municipal Act*, including the sums required for any board, commission or other body, but excluding those amounts required to be raised for district and school purposes; R.S.O. 1980, c. 302

"special area municipality levy" means an amount to be raised by an area municipality that is not included in the area municipality levy, but excluding those amounts required to be raised for district and school purposes.

(2) The council of each area municipality, in each year in accordance with subsections (3) and (4), shall levy separate rates on the whole of the rateable commercial assessment and on the whole of the rateable residential and farm assessment Area municipality levies

in respect of the area municipality levy and the special area municipality levy.

Determina-  
tion of  
commercial  
rates

(3) The rates to be levied in each year on commercial assessment for each separate levy specified in subsection (2) shall be determined by multiplying the sum required for each such levy by 1,000 and dividing the product,

- (a) by the weighted assessment for the area municipality, in the case of an area municipality levy; and
- (b) by the weighted assessment determined on the basis of the assessment that is rateable for the purpose of raising the special area municipality levy, in the case of a special area municipality levy.

Determina-  
tion of  
residential  
rates

(4) The rates to be levied in each year on residential and farm assessment for each separate levy specified in subsection (2) shall be 85 per cent of the rate to be levied on commercial assessment in accordance with subsection (3).

Non-  
application of  
R.S.O. 1980,  
c. 302, s. 158  
and c. 359,  
s. 7

(5) Section 158 of the *Municipal Act* and section 7 of the *Ontario Unconditional Grants Act* do not apply to an area municipality.

Area municipi-  
ality levy

(6) A reference in any other Act to a levy by a local municipality under section 158 of the *Municipal Act* shall, with respect to an area municipality, be deemed to be a reference to a levy under this section.

Tax-exempt  
real property

(7) The assessment for real property that is exempt from taxation for area municipality purposes by virtue of any Act or by virtue of a by-law passed by the council of an area municipality under any Act shall not be included when determining the weighted assessment for purposes of clause (3) (a) or (b).

Interim  
financing,  
District  
Council

**74c.**—(1) The District Council, before the adoption of the estimates for the year, may by by-law requisition from each area municipality a sum not exceeding 50 per cent of the amount that under subsection 74 (8) was, in the district rating by-law for the preceding year, specified to be raised in the particular area municipality and subsections 74 (8), (9) and (10) apply with necessary modifications to the amount requisitioned.

Final  
instalment  
reduced

(2) The amount of any requisition made under subsection (1) in any year upon an area municipality shall be deducted when determining the amount of the portions to be paid in



that year by the area municipality to the treasurer of the District Corporation under the district rating by-law authorized by clause 74 (8) (a).

**74d.**—(1) The council of an area municipality may for any year, before the adoption of the estimates for the year, levy such rates as it may determine on the rateable commercial assessment and on the rateable residential and farm assessment in the area municipality.

Interim  
financing,  
area municipi-  
palities

(2) A by-law for levying rates under subsection (1) shall be passed in the year that the rates are to be levied or may be passed in December of the preceding year if it provides that it does not come into force until a specified day in the following year.

By-law in  
December of  
preceding  
year

(3) The rate that may be levied on any assessment under subsection (1) shall not exceed 50 per cent of the total of the rates that were levied or would have been levied on that assessment for all purposes in the preceding year.

Determi-  
nation of  
rate

(4) If the assessment roll for taxation in the current year has not been returned, the rate levied under subsection (1) may be levied on the assessment according to the assessment roll used for taxation purposes in the preceding year.

Assessment  
roll

(5) The amount of any levy made on an assessment under subsection (1) shall be deducted from the total amount levied on that assessment for that year under sections 74, 74a and 74b.

Interim levy  
deducted  
from final  
levy

(6) If the taxes levied on an assessment for real property or on a business assessment under this section exceed the taxes to be levied on that assessment for the year under sections 74, 74a and 74b, the treasurer of the area municipality shall, not later than twenty-one days following the giving of a notice of demand of taxes payable, refund to the person assessed that portion of the taxes paid in excess of the amount payable for the year pursuant to a levy made under sections 74, 74a and 74b.

Interim levy  
in excess of  
final levy

(7) The provisions of the *Municipal Act* with respect to the levy of rates and the collection of taxes apply with necessary modifications to the levy of rates and collection of taxes under this section.

Application  
of  
R.S.O. 1980,  
c. 302

**74e.** If a direction has been made under subsection 78 (1) that a new assessment roll be returned for taxation in the current year, the Minister by order,

Power of  
Minister



- (a) may prescribe the maximum sum that may be requisitioned from each area municipality under subsection 74c (1); and
- (b) may prescribe the maximum rates that may be levied by the council of each area municipality under subsection 74d (1).

## Definitions

**75.—(1)** In this section,

“payment in lieu of taxes” means an amount that an area municipality is eligible to receive under,

- R.S.O. 1980,  
c. 31                    (a) subsection 26 (3), (4) or (5) of the *Assessment Act*,
- R.S.O. 1980,  
c. 209                    (b) subsection 7 (6) of the *Housing Development Act*,  
but not including that portion payable to a school  
board in accordance with subsection 7 (10) of that  
Act,
- R.S.O. 1980,  
c. 302                    (c) section 160 and subsection 160a (3) of the *Municipal Act*,
- R.S.O. 1980,  
c. 311                    (d) subsection 4 (1), (2) or (3) of the *Municipal Tax Assistance Act*,
- R.S.O. 1980,  
c. 361                    (e) section 42 of the *Ontario Water Resources Act*,
- R.S.O. 1980,  
c. 384                    (f) subsection 46 (2), (3), (4) or (5) of the *Power Corporation Act*, but not including that portion payable to a school board in accordance with subsection 46 (9) of that Act,
- R.S.O. 1980,  
c. 510                    (g) section 10 or 11 of the *Trees Act*,
- R.S.C. 1985,  
c. M-13                    (h) the *Municipal Grants Act* (Canada), or
- (i) any Act of Ontario or of Canada or any agreement where the payment is from any government or government agency and is in lieu of taxes on real property or business assessment, but not including a payment referred to in sections 498 and 498a of the *Municipal Act*;

“taxes for district purposes” means the sum of the taxes levied by an area municipality for district purposes as specified in the district rating by-law under subsection 74 (2) and in respect of water and sewer purposes under sections 24 and 25, excluding any adjustments under section 32 or 33 of the *Assessment Act*;

"taxes for local purposes" means the taxes levied by an area municipality for local purposes under subsection 74b (2), excluding any adjustments under section 32 or 33 of the *Assessment Act*;

R.S.O. 1980,  
c. 31

"total taxes for all purposes" means the sum of the taxes for local purposes, the taxes for district purposes and the taxes levied by the area municipality for school purposes under subsection 74a (1), excluding any adjustments under section 32 or 33 of the *Assessment Act*.

(2) If an area municipality is eligible to receive a payment in lieu of taxes for any year, it shall pay to the treasurer of the District Corporation a portion equal to the amount obtained by multiplying the amount that the area municipality is eligible to receive by the quotient, correct to five decimal places, obtained by dividing the taxes for district purposes for the year by the total of,

Area municipalities to share payments in lieu of taxes

(a) the taxes for local purposes for the year; and

(b) the taxes for district purposes for the year.

(3) Notwithstanding subsection (2), if an area municipality is eligible to receive a payment in lieu of taxes for any year under,

Sharing of certain payments

(a) subsection 26 (3), (4) or (5) of the *Assessment Act*;

(b) section 42 of the *Ontario Water Resources Act*;

R.S.O. 1980,  
c. 361

(c) subsection 46 (2), (3), (4) or (5) of the *Power Corporation Act*, but not including that portion payable to a school board in accordance with subsection 46 (9) of that Act;

R.S.O. 1980,  
c. 384

(d) section 10 or 11 of the *Trees Act*; or

R.S.O. 1980,  
c. 510

(e) the *Municipal Grants Act* (Canada),

R.S.C. 1985,  
c. M-13

and the calculation of the payment is based in part on the rates that were levied for school purposes, then the portion to be paid under subsection (2) shall be calculated by multiplying the amount that the area municipality is eligible to receive by the quotient, correct to five decimal places, obtained by dividing the taxes for district purposes for the year by the total taxes for all purposes for the year.

(4) The treasurer of each area municipality shall, on or before the 1st day of March in each year, send a statement to

Treasurer to provide estimate of share

R.S.O. 1980,  
cc. 209, 384

the treasurer of the District Corporation and each school board showing an estimate of the amount that the area municipality will be required to pay to the District Corporation for the year under subsection (2) and to each school board under subsection 7 (10) of the *Housing Development Act* and under subsection 46 (9) of the *Power Corporation Act*.

Allocation of  
payments in  
lieu of taxes

(5) If an area municipality is required to pay a portion of a payment in lieu of taxes to the District Corporation under subsection (2), or to a school board, the provisions of,

R.S.O. 1980,  
c. 31

(a) subsections 26 (7) and (9) of the *Assessment Act*;

(b) subsection 7 (10) of the *Housing Development Act*;

R.S.O. 1980,  
c. 302

(c) subsections 160 (12) and (16) and subsection 160a (4) of the *Municipal Act*; and

(d) subsection 46 (7) of the *Power Corporation Act*,

with respect to the equalization of assessment or allocation and deposit of payments shall not apply to that entitlement.

Payment of  
portion of  
telephone  
and telegraph  
tax

**76.**—(1) Each area municipality shall pay a portion of the tax levied by it under subsections 161 (12) and (13) of the *Municipal Act* to the District Corporation and the appropriate public school boards in the proportion that the taxes levied by it on commercial assessment in the year for each such body bears to the total taxes levied by it in the year on commercial assessment for all purposes, other than separate school board purposes.

Exclusion of  
taxes added  
to collector's  
roll

(2) In determining the taxes levied on commercial assessment under subsection (1), there shall be excluded any adjustments under section 32 or 33 of the *Assessment Act*.

Statement by  
treasurer

(3) The treasurer of each area municipality shall, on or before the 1st day of March in each year, send a statement to the treasurer of the District Corporation and the appropriate public school boards showing an estimate of the amount which the area municipality will be required to pay to that body for the year under subsection (1).

Exclusion of  
R.S.O. 1980,  
c. 302,  
s. 161 (18-24)

(4) Subsections 161 (18) to (24) of the *Municipal Act* do not apply if payments are made by an area municipality under subsection (1).

Payment in  
lieu and  
telephone  
and telegraph  
levies

**77.**—(1) An amount payable by an area municipality to,



- (a) the District Corporation under subsection 75 (2) or 76 (1);
- (b) a public school board under subsection 76 (1); or
- (c) a school board under subsection 7 (10) of the *Housing Development Act* or under subsection 46 (9) of the *Power Corporation Act*,

R.S.O. 1980,  
cc. 209, 384

is a debt of the area municipality to the District Corporation or school board, as the case may be, and, subject to subsections (2) and (3), instalments are payable on account thereof as follows:

1. A first instalment of 25 per cent of the amount payable for the same purposes in the preceding year, on or before the 31st day of March.
2. A second instalment of 25 per cent of the amount payable for the same purposes in the preceding year, on or before the 30th day of June.
3. A third instalment of 25 per cent of the amount payable for the same purposes in the preceding year, on or before the 30th day of September.
4. A fourth instalment of the balance of the entitlement for the year, on or before the 15th day of December.

(2) The District Council may by by-law provide for an alternative number of instalments and due dates for amounts payable by area municipalities to the District Corporation under subsection (1).

Alternative  
payment  
schedule

(3) If a school board having jurisdiction within the District Area has established an agreement which applies to one or more area municipalities in accordance with subsection 215 (3) of the *Education Act*, the number of instalments and due dates specified in that agreement shall apply with necessary modifications to those amounts otherwise payable to the school board under subsection (1).

Idem

R.S.O. 1980,  
c. 129

(4) An amount payable by an area municipality under subsection 75 (2) or 76 (1) or under subsection 7 (10) of the *Housing Development Act* or under subsection 46 (9) of the *Power Corporation Act* shall be credited by the District Corporation or school board to its general revenues.

General  
revenues

R.S.O. 1980,  
cc. 209, 384



## Default

(5) If an area municipality fails to make any payment as provided under subsection (1) or as altered under subsection (2) or (3), the area municipality shall pay to the District Corporation or school board, as applicable, interest on the amount past due at the rate of 15 per cent per annum, or at such lower rate as the school board or District Corporation may by by-law determine from time to time.

## Overpayment

(6) If the total amount paid for the year under subsection (1), (2) or (3) exceeds the total amount payable for that purpose in the year, the area municipality shall notify the District Corporation or the school board, as the case may be, of the amount of the overpayment and the District Corporation or school board shall forthwith pay that amount to the area municipality.

District-wide  
assessment  
update

**78.**—(1) If the Minister of Revenue considers that any parcel or parcels of real property within the District Area are assessed inequitably with respect to the assessment of any other parcel or parcels of real property in the District Area, the Minister of Revenue may direct that such changes be made in the assessment to be contained in the assessment roll next to be returned for each area municipality as will, in the opinion of the Minister of Revenue, eliminate or reduce inequalities in the assessment of real property in the District Area.

Date for new  
assessment  
roll

(2) If a direction is made under subsection (1), the Minister of Revenue may, for that purpose, name a day upon which the assessment commissioner for the District Area shall return a new assessment roll for the assessment at market value of real property in all area municipalities in the District Area.

When  
direction  
effective

(3) A direction under subsection (1) is effective upon publication of a notice of the direction in *The Ontario Gazette*.

Application  
of new  
assessment  
roll

(4) If the assessment roll of an area municipality for taxation in any year is changed pursuant to a direction of the Minister of Revenue under subsection (1),

(a) the assessment roll to be returned for that area municipality for taxation in that year shall be the assessment roll as so changed and not the assessment roll that would otherwise have been returned; and

(b) the assessment roll to be returned in each year following that year shall be the assessment roll returned under clause (a) as amended, added to, or otherwise altered under the *Assessment Act* up to

the date when the assessment roll is returned in each such following year.

(5) Notwithstanding subsection (4), if the assessor is of the opinion that an assessment to be shown on the assessment roll to be returned is inequitable with respect to the assessment of similar real property in the vicinity, the assessor may alter the value of the assessment to the extent necessary to make the assessment equitable with the assessment of such similar real property.

Exception

(6) For the purpose of every Act, the assessment roll of an area municipality returned under subsection (4) shall be deemed to be the assessment roll of the area municipality returned under the *Assessment Act*.

Status of assessment roll

R.S.O. 1980, c. 31

(7) In 1993 for purposes of taxation in 1994, the Minister of Revenue shall make a direction under subsection (1) for changes to be made to the assessment rolls of the area municipalities.

Mandatory return of updated roll in 1993

(8) In every fourth year following the most recent direction under subsection (1), the Minister of Revenue shall make a direction under subsection (1) for changes to be made to the assessment rolls of the area municipalities.

Mandatory return of updated roll every fourth year

(9) The Minister of Revenue shall not make a direction under subsection (1) unless the District Council by resolution has requested that a direction be made, but a resolution is not required for a direction of the Minister of Revenue required under subsection (7) or (8).

Resolution required

(10) Except as provided in subsections (1) and (11), the *Assessment Act* and the alterations, corrections, additions and amendments authorized by that Act apply to an assessment roll returned under subsection (4).

Provisions of R.S.O. 1980, c. 31

(11) Subsections 63 (1) and (3) and sections 64 and 65 of the *Assessment Act* do not apply to an area municipality or to the assessment roll of any area municipality in respect of 1989 and subsequent years.

Idem

(12) The Assessment Review Board, the Municipal Board or any court, in determining the value at which any real property shall be assessed in any complaint, appeal, proceeding or action, shall have reference to the value at which similar real property in the vicinity is assessed, and the amount of any assessment of real property shall not be altered unless the Assessment Review Board, Municipal Board or court is satisfied that the assessment is inequitable with respect to the

Powers on appeal

assessment of similar real property in the vicinity, and in that event the assessment of the real property shall not be altered to any greater extent than is necessary to make the assessment equitable with the assessment of such similar real property.

No amendment to collector's roll  
R.S.O. 1980, c. 31

(13) No amendment shall be made to the assessment or a collector's roll under clause 33 (a) of the *Assessment Act* until the cumulative value of the increase since the date of the most recent change to the assessment roll under a direction of the Minister of Revenue under subsection (1) is at least in the sum of \$5,000 at market value.

Table of rates for pipe lines

(14) For purposes of subsection 24 (16) of the *Assessment Act*, changes made in the assessment roll of an area municipality under a direction of the Minister of Revenue under subsection (1) shall be deemed to be an assessment update of all property within the area municipality under section 70 of the *Assessment Act*.

Rights of appeal preserved

(15) Nothing in section 74, 74a or 74b in any way deprives any person of any right of appeal provided for in the *Assessment Act* or affects the operation of subsection 36 (6) of that Act.

Direction may be retroactive

(16) A direction made under subsection (1) may be made retroactive to the 1st day of December of the year preceding the year in which it was made.

Deeming  
R.S.O. 1980, c. 302

(17) For the purposes of sections 362 and 363 of the *Municipal Act*, the District Corporation shall be deemed to be a municipality.

**3. Subsection 82 (3) of the said Act is repealed and the following substituted therefor:**

Pollution control fund

(3) The District Council shall establish and maintain a pollution control fund and shall contribute to such fund, in each year, the sum equivalent to a sum calculated at one-quarter of one mill in the dollar upon the total residential and farm assessment and commercial assessment for all area municipalities in that year.

Transition  
R.S.O. 1980, cc. 302, 129

**4. Notwithstanding subsection 164 (2) of the *Municipal Act* or subsection 216 (2) of the *Education Act*, if the amount levied by an area municipality for district purposes or school purposes in 1988 differs from the sum the area municipality ought to have levied for district purposes or school purposes, the area municipality shall debit or credit such deficit or surplus, as applicable, to the general funds of the municipality and not revise the rates to be levied for such body in 1989.**



**5.—(1)** Nothing in this Act affects the validity of an interim levy made by the District Council or by the council of an area municipality under section 76 of the *District Municipality of Muskoka Act* as it existed before the coming into force of this Act. Transition  
R.S.O. 1980,  
c. 121

**(2)** Subsections 74 (8), (9) and (10), as re-enacted by section 2 of this Act, and subsection 74c (2), as enacted by section 2 of this Act, of the *District Municipality of Muskoka Act* apply with necessary modifications to an interim levy made by the District Council in 1989. Idem  
R.S.O. 1980,  
c. 121

**(3)** Subsections 74d (4), (5) and (6), as enacted by section 2 of this Act, of the *District Municipality of Muskoka Act* apply with necessary modifications to an interim levy made by an area municipality in 1989. Idem

**6.—(1)** Subsection 130 (10) of the *Education Act*, being chapter 129 of the Revised Statutes of Ontario, 1980, as re-enacted by the Statutes of Ontario, 1988, chapter 23, section 8, is repealed and the following substituted therefor:

(10) This section does not apply to The Haldimand-Norfolk Roman Catholic Separate School Board, The Nipissing District Roman Catholic Separate School Board, The Simcoe County Roman Catholic Separate School Board, The Sudbury District Roman Catholic Separate School Board, The Waterloo County Roman Catholic Separate School Board or to a separate school board having jurisdiction wholly or partly in a county where an assessment update has been carried out under subsection 368b (2) of the *Municipal Act*. Non-application  
R.S.O. 1980,  
c. 302

**(2)** Subsection 214 (7) of the said Act, as enacted by the Statutes of Ontario, 1988, chapter 46, section 2, is repealed.

**(3)** Subsection 214 (17) of the said Act, as enacted by the Statutes of Ontario, 1988, chapter 46, section 2, is repealed and the following substituted therefor:

(17) Subsections (2) to (16) do not apply to an area municipality in The District Municipality of Muskoka, The Regional Municipality of Haldimand-Norfolk, The Regional Municipality of Sudbury, The Regional Municipality of Waterloo or to a local municipality in a county where an assessment update has been carried out under subsection 368b (2) of the *Municipal Act*. Non-application

**(4)** Clause 214b (2) (b) of the said Act, as re-enacted by the Statutes of Ontario, 1988, chapter 23, section 8, is repealed and the following substituted therefor:



- (b) The District Municipality of Muskoka, The Regional Municipality of Haldimand-Norfolk or The Regional Municipality of Waterloo.

(5) Subsection 214b (4) of the said Act, as enacted by the Statutes of Ontario, 1987, chapter 17, section 3, is amended by striking out "The Regional Municipality of Haldimand-Norfolk" in the ninth and tenth lines and inserting in lieu thereof "The District Municipality of Muskoka, The Regional Municipality of Haldimand-Norfolk or The Regional Municipality of Waterloo".

(6) Subsection 222 (4) of the said Act, as re-enacted by the Statutes of Ontario, 1988, chapter 23, section 8, is repealed and the following substituted therefor:

Non-application

(4) Subsection (2) does not apply to an area municipality in The District Municipality of Muskoka, The Regional Municipality of Haldimand-Norfolk, The Regional Municipality of Sudbury, The Regional Municipality of Waterloo or a local municipality in a county where an assessment update has been carried out under subsection 368b (2) of the *Municipal Act*.

(7) Section 225 of the said Act, as re-enacted by the Statutes of Ontario, 1988, chapter 23, section 8, is repealed and the following substituted therefor:

Conflict

R.S.O. 1980.  
cc. 121, 435,  
441, 442,  
302

**225.** In the event of a conflict between any provision in sections 220 to 224 and any provision in any other Act, other than the *District Municipality of Muskoka Act*, the *Regional Municipality of Haldimand-Norfolk Act*, the *Regional Municipality of Sudbury Act*, the *Regional Municipality of Waterloo Act* and section 368d of the *Municipal Act*, the provisions in sections 220 to 224 prevail.

Commencement

**7.** This Act shall be deemed to have come into force on the 1st day of January, 1989.

Short title

**8.** The short title of this Act is the *District Municipality of Muskoka Statute Law Amendment Act, 1989*.





# Bill 34

*(Chapter 74  
Statutes of Ontario, 1989)*

## **An Act to amend the District Municipality of Muskoka Act and the Education Act**

**The Hon. J. Sweeney**  
*Minister of Municipal Affairs*

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<i>1st Reading</i>	June 19th, 1989
<i>2nd Reading</i>	December 14th, 1989
<i>3rd Reading</i>	December 19th, 1989
<i>Royal Assent</i>	December 19th, 1989

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Bill 34

1989

## An Act to amend the District Municipality of Muskoka Act and the Education Act

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

**1.** Section 71 of the *District Municipality of Muskoka Act*, being chapter 121 of the Revised Statutes of Ontario, 1980, is repealed and the following substituted therefor:

**71.** In this Part,

Definitions

“commercial assessment” means the total, according to the last returned assessment roll, of,

(a) the assessment of real property that is used as the basis for computing business assessment including the assessment for real property that is rented and occupied or used by the Crown in right of Canada or any province or any board, commission, corporation or other agency thereof, or by any municipal corporation or the District Corporation or local board thereof,

(b) business assessment, and

(c) the assessment for mineral lands, pipe lines and railway lands, other than railway lands actually in use for residential and farming purposes;

“district rating by-law” means a by-law passed under subsection 74 (2);

“public school board” means a divisional board, as defined in paragraph 19 of subsection 1 (1) of the *Education Act*, that has jurisdiction in the District Area;

R.S.O. 1980,  
c. 129

“rateable property” includes business and other assessment made under the *Assessment Act*;

R.S.O. 1980,  
c. 31

“residential and farm assessment” means the total assessment for real property according to the last returned assessment roll except the assessments for real property mentioned in clauses (a) and (c) of the definition of “commercial assessment”;

R.S.O. 1980,  
c. 129

“separate school board” means a separate school board, as defined in paragraph 59a of subsection 1 (1) of the *Education Act*, that has jurisdiction in the District Area;

“weighted assessment” means, for the relevant area, the total of,

- (a) the product obtained by multiplying the residential and farm assessment by 85 per cent, and
- (b) the commercial assessment.

**2. Section 74 of the said Act, as amended by the Statutes of Ontario, 1984, chapter 45, section 14, and sections 75, 76, 77 and 78 are repealed and the following substituted therefor:**

Definition

**74.—(1)** In this section, “general district levy” means a sum sufficient,

- (a) for payment of the estimated current annual expenditures as adopted under section 73; and
- (b) for payment of all debts of the District Corporation falling due within the year as well as amounts required to be raised for sinking funds and principal and interest payments or sinking fund requirements in respect of debenture debt of area municipalities for the payment of which the District Corporation is liable under this Act,

but excludes those amounts for water and sewage purposes that are to be raised by a special rate or rates in accordance with sections 24 and 25.

District  
rating by-law

(2) For purposes of raising the general district levy, the District Council, on or before the 30th day of June in 1989 and on or before the 31st day of March in each subsequent year, shall pass a by-law directing the council of each area municipality to levy a separate rate, as specified in the by-law, on the residential and farm assessment in the area municipality rateable for district purposes and on the commercial assessment in the area municipality rateable for district purposes.

- (3) The rate that the District Council shall direct to be levied in each year on commercial assessment under subsection (2) shall be determined by multiplying the general district levy by 1,000 and dividing the product by the weighted assessments for all the area municipalities. Determination of commercial rate
- (4) The rate that the District Council shall direct to be levied on the residential and farm assessment under subsection (2) shall be 85 per cent of the rate that it directs to be levied on commercial assessment. Determination of residential rate
- (5) In each year, the council of each area municipality shall levy, in accordance with the district rating by-law passed for that year, the rates specified in the by-law. Area municipality to adopt rates
- (6) The assessment for real property that is exempt from taxation for district purposes by virtue of any Act or by virtue of a by-law passed by the council of an area municipality under any Act shall not be included when determining the total of the weighted assessment for the purposes of subsection (3). Tax-exempt real property
- (7) The full value of all rateable property shall be used in determining, Full value to be used
- (a) the rates to be levied under subsections (3) and (4); and
  - (b) the assessment on which the levy shall be made under subsection (5),
- and, notwithstanding any other Act, but subject to section 22 of the *Assessment Act*, no fixed assessment applies thereto. R.S.O. 1980, c. 31
- (8) A district rating by-law shall specify the amount to be raised in an area municipality as a result of a levy being made in that area municipality in accordance with the by-law and the by-law, Instalment and advance payments
- (a) may require specified portions of that amount to be paid to the treasurer of the District Corporation on or before specified dates; and
  - (b) may provide that the District Corporation shall pay interest at a rate to be determined by the District Council on any payment required, or portion thereof, made in advance by any area municipality.
- (9) The amount specified to be raised in an area municipality pursuant to a district rating by-law shall be deemed to be Payment



taxes and is a debt of the area municipality to the District Corporation and the treasurer of the area municipality shall pay the amount owing by the area municipality to the treasurer of the District Corporation on or before the dates and in the portions specified in the district rating by-law.

Default

(10) If an area municipality fails to make any payment, or portion thereof, as provided in the district rating by-law, the area municipality shall pay to the District Corporation interest on the amount in default at the rate of 15 per cent per annum from the due date of the payment, or such lower rate as the District Council may by by-law determine, from the date payment is due until it is made.

Extension of time

(11) The Minister by order may extend the time for passing a district rating by-law in any year and such an order may be made notwithstanding that the time limit set out in subsection (2) has expired.

Determination of school rates

**74a.**—(1) In each year, The Muskoka Board of Education, The Nipissing District Roman Catholic Separate School Board, The Simcoe County Roman Catholic Separate School Board and The West Parry Sound Board of Education shall determine for the part of an area municipality which is within the area of jurisdiction of the board the rates to be levied by the applicable area municipality to provide the sums required for elementary and secondary school purposes, as the case may be, in that year and shall specify the amount that is to be provided in that year by the application of those rates.

Idem

R.S.O. 1980,  
c. 129

(2) The determinations required by subsection (1) shall be made in accordance with subsection 222 (1) of the *Education Act*.

Direction to area municipalities

(3) On or before the 1st day of March in each year, The Muskoka Board of Education, The Nipissing District Roman Catholic Separate School Board, The Simcoe County Roman Catholic Separate School Board and The West Parry Sound Board of Education shall direct the council of each applicable area municipality to levy the rates determined by the particular board under subsection (1) in respect of the area municipality or the part thereof which is within the area of jurisdiction of the board and shall advise the area municipality of the amount of money to be raised by levying those rates.

Area municipality to levy and collect

(4) In each year, the council of an area municipality shall levy rates in accordance with the directions under subsection (3) upon all property in the area municipality rateable for public school board or separate school board purposes, as may be appropriate.

(5) The full value of all applicable rateable property shall be used in determining, Full value to be used

(a) the weighted assessment for each area municipality for purposes of apportioning among the applicable area municipalities the sums required for school purposes by the school boards mentioned in subsection (3);

(b) the rates mentioned in subsection (1); and

(c) the assessment upon which the rates are to be levied under sections 128, 133 and 215 of the *Education Act*, R.S.O. 1980, c. 129, 31

and notwithstanding any other Act, but subject to section 22 of the *Assessment Act*, no fixed assessment applies thereto.

(6) For the purposes of determining and levying rates under this section, a reference in the *Education Act* to "commercial assessment" or "residential and farm assessment" shall be deemed to be a reference to such assessments as defined in this Part and not as defined in section 220 of that Act. Definitions in R.S.O. 1980, c. 129, s. 220

(7) Subsection 219 (2) of the *Education Act* does not apply to the determination of rates under subsection (1). Non-application of R.S.O. 1980, c. 129, s. 219 (2)

(8) Except as provided in this section, the *Education Act* continues to apply to the levying of rates and collecting of taxes for each public school board and separate school board having jurisdiction in part of the District Area. Application of R.S.O. 1980, c. 129

**74b.**—(1) In this section,

Definitions

"area municipality levy" means the amount required for area municipality purposes under section 164 of the *Municipal Act*, including the sums required for any board, commission or other body, but excluding those amounts required to be raised for district and school purposes; R.S.O. 1980, c. 302

"special area municipality levy" means an amount to be raised by an area municipality that is not included in the area municipality levy, but excluding those amounts required to be raised for district and school purposes.

(2) The council of each area municipality, in each year in accordance with subsections (3) and (4), shall levy separate rates on the whole of the rateable commercial assessment and on the whole of the rateable residential and farm assessment Area municipality levies

in respect of the area municipality levy and the special area municipality levy.

Determi-  
nation of  
commercial  
rates

(3) The rates to be levied in each year on commercial assessment for each separate levy specified in subsection (2) shall be determined by multiplying the sum required for each such levy by 1,000 and dividing the product,

- (a) by the weighted assessment for the area municipality, in the case of an area municipality levy; and
- (b) by the weighted assessment determined on the basis of the assessment that is rateable for the purpose of raising the special area municipality levy, in the case of a special area municipality levy.

Determi-  
nation of  
residential  
rates

(4) The rates to be levied in each year on residential and farm assessment for each separate levy specified in subsection (2) shall be 85 per cent of the rate to be levied on commercial assessment in accordance with subsection (3).

Non-  
application of  
R.S.O. 1980,  
c. 302, s. 158  
and c. 359,  
s. 7

(5) Section 158 of the *Municipal Act* and section 7 of the *Ontario Unconditional Grants Act* do not apply to an area municipality.

Area muni-  
cipality levy

(6) A reference in any other Act to a levy by a local municipality under section 158 of the *Municipal Act* shall, with respect to an area municipality, be deemed to be a reference to a levy under this section.

Tax-exempt  
real property

(7) The assessment for real property that is exempt from taxation for area municipality purposes by virtue of any Act or by virtue of a by-law passed by the council of an area municipality under any Act shall not be included when determining the weighted assessment for purposes of clause (3) (a) or (b).

Interim  
financing,  
District  
Council

**74c.**—(1) The District Council, before the adoption of the estimates for the year, may by by-law requisition from each area municipality a sum not exceeding 50 per cent of the amount that under subsection 74 (8) was, in the district rating by-law for the preceding year, specified to be raised in the particular area municipality and subsections 74 (8), (9) and (10) apply with necessary modifications to the amount requisitioned.

Final  
instalment  
reduced

(2) The amount of any requisition made under subsection (1) in any year upon an area municipality shall be deducted when determining the amount of the portions to be paid in



that year by the area municipality to the treasurer of the District Corporation under the district rating by-law authorized by clause 74 (8) (a).

**74d.**—(1) The council of an area municipality may for any year, before the adoption of the estimates for the year, levy such rates as it may determine on the rateable commercial assessment and on the rateable residential and farm assessment in the area municipality.

Interim  
financing,  
area municipi-  
palities

(2) A by-law for levying rates under subsection (1) shall be passed in the year that the rates are to be levied or may be passed in December of the preceding year if it provides that it does not come into force until a specified day in the following year.

By-law in  
December of  
preceding  
year

(3) The rate that may be levied on any assessment under subsection (1) shall not exceed 50 per cent of the total of the rates that were levied or would have been levied on that assessment for all purposes in the preceding year.

Determi-  
nation of  
rate

(4) If the assessment roll for taxation in the current year has not been returned, the rate levied under subsection (1) may be levied on the assessment according to the assessment roll used for taxation purposes in the preceding year.

Assessment  
roll

(5) The amount of any levy made on an assessment under subsection (1) shall be deducted from the total amount levied on that assessment for that year under sections 74, 74a and 74b.

Interim levy  
deducted  
from final  
levy

(6) If the taxes levied on an assessment for real property or on a business assessment under this section exceed the taxes to be levied on that assessment for the year under sections 74, 74a and 74b, the treasurer of the area municipality shall, not later than twenty-one days following the giving of a notice of demand of taxes payable, refund to the person assessed that portion of the taxes paid in excess of the amount payable for the year pursuant to a levy made under sections 74, 74a and 74b.

Interim levy  
in excess of  
final levy

(7) The provisions of the *Municipal Act* with respect to the levy of rates and the collection of taxes apply with necessary modifications to the levy of rates and collection of taxes under this section.

Application  
of  
R.S.O. 1980,  
c. 302

**74e.** If a direction has been made under subsection 78 (1) that a new assessment roll be returned for taxation in the current year, the Minister by order,

Power of  
Minister



- (a) may prescribe the maximum sum that may be requisitioned from each area municipality under subsection 74c (1); and
- (b) may prescribe the maximum rates that may be levied by the council of each area municipality under subsection 74d (1).

## Definitions

**75.—(1)** In this section,

“payment in lieu of taxes” means an amount that an area municipality is eligible to receive under,

- R.S.O. 1980,  
c. 31                    (a) subsection 26 (3), (4) or (5) of the *Assessment Act*,
- R.S.O. 1980,  
c. 209                    (b) subsection 7 (6) of the *Housing Development Act*, but not including that portion payable to a school board in accordance with subsection 7 (10) of that Act,
- R.S.O. 1980,  
c. 302                    (c) section 160 and subsection 160a (3) of the *Municipal Act*,
- R.S.O. 1980,  
c. 311                    (d) subsection 4 (1), (2) or (3) of the *Municipal Tax Assistance Act*,
- R.S.O. 1980,  
c. 361                    (e) section 42 of the *Ontario Water Resources Act*,
- R.S.O. 1980,  
c. 384                    (f) subsection 46 (2), (3), (4) or (5) of the *Power Corporation Act*, but not including that portion payable to a school board in accordance with subsection 46 (9) of that Act,
- R.S.O. 1980,  
c. 510                    (g) section 10 or 11 of the *Trees Act*,
- R.S.C. 1985,  
c. M-13                    (h) the *Municipal Grants Act* (Canada), or
- (i) any Act of Ontario or of Canada or any agreement where the payment is from any government or government agency and is in lieu of taxes on real property or business assessment, but not including a payment referred to in sections 498 and 498a of the *Municipal Act*;

“taxes for district purposes” means the sum of the taxes levied by an area municipality for district purposes as specified in the district rating by-law under subsection 74 (2) and in respect of water and sewer purposes under sections 24 and 25, excluding any adjustments under section 32 or 33 of the *Assessment Act*;

“taxes for local purposes” means the taxes levied by an area municipality for local purposes under subsection 74b (2), excluding any adjustments under section 32 or 33 of the *Assessment Act*;

R.S.O. 1980,  
c. 31

“total taxes for all purposes” means the sum of the taxes for local purposes, the taxes for district purposes and the taxes levied by the area municipality for school purposes under subsection 74a (1), excluding any adjustments under section 32 or 33 of the *Assessment Act*.

(2) If an area municipality is eligible to receive a payment in lieu of taxes for any year, it shall pay to the treasurer of the District Corporation a portion equal to the amount obtained by multiplying the amount that the area municipality is eligible to receive by the quotient, correct to five decimal places, obtained by dividing the taxes for district purposes for the year by the total of,

Area municipalities to share payments in lieu of taxes

(a) the taxes for local purposes for the year; and

(b) the taxes for district purposes for the year.

(3) Notwithstanding subsection (2), if an area municipality is eligible to receive a payment in lieu of taxes for any year under,

Sharing of certain payments

(a) subsection 26 (3), (4) or (5) of the *Assessment Act*;

(b) section 42 of the *Ontario Water Resources Act*;

R.S.O. 1980,  
c. 361

(c) subsection 46 (2), (3), (4) or (5) of the *Power Corporation Act*, but not including that portion payable to a school board in accordance with subsection 46 (9) of that Act;

R.S.O. 1980,  
c. 384

(d) section 10 or 11 of the *Trees Act*; or

R.S.O. 1980,  
c. 510

(e) the *Municipal Grants Act* (Canada),

R.S.C. 1985,  
c. M-13

and the calculation of the payment is based in part on the rates that were levied for school purposes, then the portion to be paid under subsection (2) shall be calculated by multiplying the amount that the area municipality is eligible to receive by the quotient, correct to five decimal places, obtained by dividing the taxes for district purposes for the year by the total taxes for all purposes for the year.

(4) The treasurer of each area municipality shall, on or before the 1st day of March in each year, send a statement to

Treasurer to provide estimate of share

R.S.O. 1980,  
cc. 209, 384

the treasurer of the District Corporation and each school board showing an estimate of the amount that the area municipality will be required to pay to the District Corporation for the year under subsection (2) and to each school board under subsection 7 (10) of the *Housing Development Act* and under subsection 46 (9) of the *Power Corporation Act*.

Allocation of  
payments in  
lieu of taxes

(5) If an area municipality is required to pay a portion of a payment in lieu of taxes to the District Corporation under subsection (2), or to a school board, the provisions of,

R.S.O. 1980,  
c. 31

(a) subsections 26 (7) and (9) of the *Assessment Act*;

(b) subsection 7 (10) of the *Housing Development Act*;

R.S.O. 1980,  
c. 302

(c) subsections 160 (12) and (16) and subsection 160a (4) of the *Municipal Act*; and

(d) subsection 46 (7) of the *Power Corporation Act*,

with respect to the equalization of assessment or allocation and deposit of payments shall not apply to that entitlement.

Payment of  
portion of  
telephone  
and telegraph  
tax

**76.**—(1) Each area municipality shall pay a portion of the tax levied by it under subsections 161 (12) and (13) of the *Municipal Act* to the District Corporation and the appropriate public school boards in the proportion that the taxes levied by it on commercial assessment in the year for each such body bears to the total taxes levied by it in the year on commercial assessment for all purposes, other than separate school board purposes.

Exclusion of  
taxes added  
to collector's  
roll

(2) In determining the taxes levied on commercial assessment under subsection (1), there shall be excluded any adjustments under section 32 or 33 of the *Assessment Act*.

Statement by  
treasurer

(3) The treasurer of each area municipality shall, on or before the 1st day of March in each year, send a statement to the treasurer of the District Corporation and the appropriate public school boards showing an estimate of the amount which the area municipality will be required to pay to that body for the year under subsection (1).

Exclusion of  
R.S.O. 1980,  
c. 302,  
s. 161 (18-24)

(4) Subsections 161 (18) to (24) of the *Municipal Act* do not apply if payments are made by an area municipality under subsection (1).

Payment in  
lieu and  
telephone  
and telegraph  
levies

**77.**—(1) An amount payable by an area municipality to,



- (a) the District Corporation under subsection 75 (2) or 76 (1);
- (b) a public school board under subsection 76 (1); or
- (c) a school board under subsection 7 (10) of the *Housing Development Act* or under subsection 46 (9) of the *Power Corporation Act*,

R.S.O. 1980,  
cc. 209, 384

is a debt of the area municipality to the District Corporation or school board, as the case may be, and, subject to subsections (2) and (3), instalments are payable on account thereof as follows:

1. A first instalment of 25 per cent of the amount payable for the same purposes in the preceding year, on or before the 31st day of March.
2. A second instalment of 25 per cent of the amount payable for the same purposes in the preceding year, on or before the 30th day of June.
3. A third instalment of 25 per cent of the amount payable for the same purposes in the preceding year, on or before the 30th day of September.
4. A fourth instalment of the balance of the entitlement for the year, on or before the 15th day of December.

(2) The District Council may by by-law provide for an alternative number of instalments and due dates for amounts payable by area municipalities to the District Corporation under subsection (1).

Alternative  
payment  
schedule

(3) If a school board having jurisdiction within the District Area has established an agreement which applies to one or more area municipalities in accordance with subsection 215 (3) of the *Education Act*, the number of instalments and due dates specified in that agreement shall apply with necessary modifications to those amounts otherwise payable to the school board under subsection (1).

Idem

R.S.O. 1980,  
c. 129

(4) An amount payable by an area municipality under subsection 75 (2) or 76 (1) or under subsection 7 (10) of the *Housing Development Act* or under subsection 46 (9) of the *Power Corporation Act* shall be credited by the District Corporation or school board to its general revenues.

General  
revenues

R.S.O. 1980,  
cc. 209, 384



## Default

(5) If an area municipality fails to make any payment as provided under subsection (1) or as altered under subsection (2) or (3), the area municipality shall pay to the District Corporation or school board, as applicable, interest on the amount past due at the rate of 15 per cent per annum, or at such lower rate as the school board or District Corporation may by by-law determine from time to time.

## Overpayment

(6) If the total amount paid for the year under subsection (1), (2) or (3) exceeds the total amount payable for that purpose in the year, the area municipality shall notify the District Corporation or the school board, as the case may be, of the amount of the overpayment and the District Corporation or school board shall forthwith pay that amount to the area municipality.

District-wide  
assessment  
update

**78.—**(1) If the Minister of Revenue considers that any parcel or parcels of real property within the District Area are assessed inequitably with respect to the assessment of any other parcel or parcels of real property in the District Area, the Minister of Revenue may direct that such changes be made in the assessment to be contained in the assessment roll next to be returned for each area municipality as will, in the opinion of the Minister of Revenue, eliminate or reduce inequalities in the assessment of real property in the District Area.

Date for new  
assessment  
roll

(2) If a direction is made under subsection (1), the Minister of Revenue may, for that purpose, name a day upon which the assessment commissioner for the District Area shall return a new assessment roll for the assessment at market value of real property in all area municipalities in the District Area.

When  
direction  
effective

(3) A direction under subsection (1) is effective upon publication of a notice of the direction in *The Ontario Gazette*.

Application  
of new  
assessment  
roll

(4) If the assessment roll of an area municipality for taxation in any year is changed pursuant to a direction of the Minister of Revenue under subsection (1),

- (a) the assessment roll to be returned for that area municipality for taxation in that year shall be the assessment roll as so changed and not the assessment roll that would otherwise have been returned; and
- (b) the assessment roll to be returned in each year following that year shall be the assessment roll returned under clause (a) as amended, added to, or otherwise altered under the *Assessment Act* up to

the date when the assessment roll is returned in each such following year.

(5) Notwithstanding subsection (4), if the assessor is of the opinion that an assessment to be shown on the assessment roll to be returned is inequitable with respect to the assessment of similar real property in the vicinity, the assessor may alter the value of the assessment to the extent necessary to make the assessment equitable with the assessment of such similar real property.

Exception

(6) For the purpose of every Act, the assessment roll of an area municipality returned under subsection (4) shall be deemed to be the assessment roll of the area municipality returned under the *Assessment Act*.

Status of  
assessment  
roll

R.S.O. 1980,  
c. 31

(7) In 1993 for purposes of taxation in 1994, the Minister of Revenue shall make a direction under subsection (1) for changes to be made to the assessment rolls of the area municipalities.

Mandatory  
return of  
updated roll  
in 1993

(8) In every fourth year following the most recent direction under subsection (1), the Minister of Revenue shall make a direction under subsection (1) for changes to be made to the assessment rolls of the area municipalities.

Mandatory  
return of  
updated roll  
every fourth  
year

(9) The Minister of Revenue shall not make a direction under subsection (1) unless the District Council by resolution has requested that a direction be made, but a resolution is not required for a direction of the Minister of Revenue required under subsection (7) or (8).

Resolution  
required

(10) Except as provided in subsections (1) and (11), the *Assessment Act* and the alterations, corrections, additions and amendments authorized by that Act apply to an assessment roll returned under subsection (4).

Provisions of  
R.S.O. 1980,  
c. 31

(11) Subsections 63 (1) and (3) and sections 64 and 65 of the *Assessment Act* do not apply to an area municipality or to the assessment roll of any area municipality in respect of 1989 and subsequent years.

Idem

(12) The Assessment Review Board, the Municipal Board or any court, in determining the value at which any real property shall be assessed in any complaint, appeal, proceeding or action, shall have reference to the value at which similar real property in the vicinity is assessed, and the amount of any assessment of real property shall not be altered unless the Assessment Review Board, Municipal Board or court is satisfied that the assessment is inequitable with respect to the

Powers on  
appeal

assessment of similar real property in the vicinity, and in that event the assessment of the real property shall not be altered to any greater extent than is necessary to make the assessment equitable with the assessment of such similar real property.

No amendment  
to collector's  
roll  
R.S.O. 1980,  
c. 31

(13) No amendment shall be made to the assessment or a collector's roll under clause 33 (a) of the *Assessment Act* until the cumulative value of the increase since the date of the most recent change to the assessment roll under a direction of the Minister of Revenue under subsection (1) is at least in the sum of \$5,000 at market value.

Table of  
rates for pipe  
lines

(14) For purposes of subsection 24 (16) of the *Assessment Act*, changes made in the assessment roll of an area municipality under a direction of the Minister of Revenue under subsection (1) shall be deemed to be an assessment update of all property within the area municipality under section 70 of the *Assessment Act*.

Rights of  
appeal  
preserved

(15) Nothing in section 74, 74a or 74b in any way deprives any person of any right of appeal provided for in the *Assessment Act* or affects the operation of subsection 36 (6) of that Act.

Direction  
may be  
retroactive

(16) A direction made under subsection (1) may be made retroactive to the 1st day of December of the year preceding the year in which it was made.

Deeming  
R.S.O. 1980,  
c. 302

(17) For the purposes of sections 362 and 363 of the *Municipal Act*, the District Corporation shall be deemed to be a municipality.

**3. Subsection 82 (3) of the said Act is repealed and the following substituted therefor:**

Pollution  
control fund

(3) The District Council shall establish and maintain a pollution control fund and shall contribute to such fund, in each year, the sum equivalent to a sum calculated at one-quarter of one mill in the dollar upon the total residential and farm assessment and commercial assessment for all area municipalities in that year.

Transition  
R.S.O. 1980,  
cc. 302, 129

**4. Notwithstanding subsection 164 (2) of the *Municipal Act* or subsection 216 (2) of the *Education Act*, if the amount levied by an area municipality for district purposes or school purposes in 1988 differs from the sum the area municipality ought to have levied for district purposes or school purposes, the area municipality shall debit or credit such deficit or surplus, as applicable, to the general funds of the municipality and not revise the rates to be levied for such body in 1989.**



**5.—(1)** Nothing in this Act affects the validity of an interim levy made by the District Council or by the council of an area municipality under section 76 of the *District Municipality of Muskoka Act* as it existed before the coming into force of this Act. Transition  
R.S.O. 1980,  
c. 121

(2) Subsections 74 (8), (9) and (10), as re-enacted by section 2 of this Act, and subsection 74c (2), as enacted by section 2 of this Act, of the *District Municipality of Muskoka Act* apply with necessary modifications to an interim levy made by the District Council in 1989. Idem

(3) Subsections 74d (4), (5) and (6), as enacted by section 2 of this Act, of the *District Municipality of Muskoka Act* apply with necessary modifications to an interim levy made by an area municipality in 1989. Idem

**6.—(1)** Subsection 130 (10) of the *Education Act*, being chapter 129 of the Revised Statutes of Ontario, 1980, as re-enacted by the Statutes of Ontario, 1988, chapter 23, section 8, is repealed and the following substituted therefor:

(10) This section does not apply to The Haldimand-Norfolk Roman Catholic Separate School Board, The Nipissing District Roman Catholic Separate School Board, The Simcoe County Roman Catholic Separate School Board, The Sudbury District Roman Catholic Separate School Board, The Waterloo County Roman Catholic Separate School Board or to a separate school board having jurisdiction wholly or partly in a county where an assessment update has been carried out under subsection 368b (2) of the *Municipal Act*. Non-application  
R.S.O. 1980,  
c. 302

(2) Subsection 214 (7) of the said Act, as enacted by the Statutes of Ontario, 1988, chapter 46, section 2, is repealed.

(3) Subsection 214 (17) of the said Act, as enacted by the Statutes of Ontario, 1988, chapter 46, section 2, is repealed and the following substituted therefor:

(17) Subsections (2) to (16) do not apply to an area municipality in The District Municipality of Muskoka, The Regional Municipality of Haldimand-Norfolk, The Regional Municipality of Sudbury, The Regional Municipality of Waterloo or to a local municipality in a county where an assessment update has been carried out under subsection 368b (2) of the *Municipal Act*. Non-application

(4) Clause 214b (2) (b) of the said Act, as re-enacted by the Statutes of Ontario, 1988, chapter 23, section 8, is repealed and the following substituted therefor:



- (b) The District Municipality of Muskoka, The Regional Municipality of Haldimand-Norfolk or The Regional Municipality of Waterloo.

(5) Subsection 214b (4) of the said Act, as enacted by the Statutes of Ontario, 1987, chapter 17, section 3, is amended by striking out "The Regional Municipality of Haldimand-Norfolk" in the ninth and tenth lines and inserting in lieu thereof "The District Municipality of Muskoka, The Regional Municipality of Haldimand-Norfolk or The Regional Municipality of Waterloo".

(6) Subsection 222 (4) of the said Act, as re-enacted by the Statutes of Ontario, 1988, chapter 23, section 8, is repealed and the following substituted therefor:

Non-application

(4) Subsection (2) does not apply to an area municipality in The District Municipality of Muskoka, The Regional Municipality of Haldimand-Norfolk, The Regional Municipality of Sudbury, The Regional Municipality of Waterloo or a local municipality in a county where an assessment update has been carried out under subsection 368b (2) of the *Municipal Act*.

(7) Section 225 of the said Act, as re-enacted by the Statutes of Ontario, 1988, chapter 23, section 8, is repealed and the following substituted therefor:

Conflict

R.S.O. 1980,  
cc. 121, 435,  
441, 442,  
302

**225.** In the event of a conflict between any provision in sections 220 to 224 and any provision in any other Act, other than the *District Municipality of Muskoka Act*, the *Regional Municipality of Haldimand-Norfolk Act*, the *Regional Municipality of Sudbury Act*, the *Regional Municipality of Waterloo Act* and section 368d of the *Municipal Act*, the provisions in sections 220 to 224 prevail.

Commencement

**7.** This Act shall be deemed to have come into force on the 1st day of January, 1989.

Short title

**8.** The short title of this Act is the *District Municipality of Muskoka Statute Law Amendment Act, 1989*.





# Bill 35

## **An Act respecting the amalgamation of the City of Sarnia and the Town of Clearwater and the addition of the amalgamated City to the County of Lambton**

The Hon. J. Eakins  
*Minister of Municipal Affairs*

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*1st Reading*      June 20th, 1989  
*2nd Reading*  
*3rd Reading*  
*Royal Assent*

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### EXPLANATORY NOTES

The purpose of the Bill is to amalgamate the City of Sarnia with the Town of Clearwater on the 1st day of January, 1991 and to make the amalgamated City part of the County for municipal purposes.

The council of the amalgamated City shall consist of eight members, elected on a ward basis, four of whom shall also sit on County Council. The council of the County shall consist of the mayor of each local municipality and the four members elected by ward from the City. The distribution of votes on County Council is set out in subsection 18 (2).

Under Part VII certain powers that are usually conferred on local municipalities may, if prescribed by the Minister, be assumed by the County. The County is also responsible for waste management, county roads and certain other roads described in section 54, health and social services and public libraries.

A board of arbitrators is appointed under section 80 to deal with disputes in respect of any adjustments of assets and liabilities that result from the amalgamation and transfer of responsibilities.

**Bill 35**

**1989**

**An Act respecting the  
amalgamation of the City of Sarnia and the  
Town of Clearwater and the addition of the  
amalgamated City to the County of Lambton**

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HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

**Definitions**

**1. In this Act,**

“City” means The Corporation of the City of Sarnia-Clearwater as created by the amalgamation of the former municipalities under section 2;

“City of Sarnia” means the former municipality of The Corporation of the City of Sarnia;

“County” means The Corporation of the County of Lambton;

“County Council” means the council of the County;

“former municipalities” means The Corporation of the City of Sarnia and The Corporation of the Town of Clearwater as they existed before the 1st day of January, 1991;

“local municipality” means a city, town, village and township forming part of the County for municipal purposes but does not include a former municipality;

“Minister” means the Minister of Municipal Affairs;

“Municipal Board” means the Ontario Municipal Board;

“municipality” means a municipality, as defined in the *Municipal Affairs Act*, and a metropolitan, regional or district municipality and the County of Oxford or a local board of a metropolitan, regional or district municipality or of the County of Oxford; R.S.O. 1980,  
c. 303

“pre-election period” means the period from the 1st day of January, 1991 until the 30th day of November, 1991, inclusive;

“prescribed” means prescribed by regulations made under this Act;

“Town of Clearwater” means the former municipality of The Corporation of the Town of Clearwater.

## PART I

### LOCAL MUNICIPALITIES

**2.—(1)** On the 1st day of January, 1991, The Corporation of the City of Sarnia and The Corporation of the Town of Clearwater are amalgamated under the name of “The Corporation of the City of Sarnia-Clearwater”. Amalga-  
mation

(2) Despite section 5 of the *Territorial Division Act*, the City forms part of the County for municipal purposes. City forms  
part of  
County  
R.S.O. 1980,  
c. 497

(3) The City shall not apply for the annexation or amalgamation of any land before the 1st day of January, 2016, unless the County Council and the council of every local municipality the lands of which are part of the proposed annexation or amalgamation agree, by resolution, to the proposed application being made. Future  
amalgama-  
tion,  
annexation  
by agreement



Name of City  
to be put to  
a vote

**3.**—(1) The City shall submit the question “Do you want the new City to be named Sarnia” to the electors of the City at the 1991 regular election.

Change of  
name

(2) If the majority of votes cast in response to the question are in the affirmative, the name of the City shall become The Corporation of the City of Sarnia effective the 1st day of January, 1992.

Idem

(3) After the 1st day of January, 1992, the Minister may by order alter the name of the City.

Composition  
of interim  
City council  
R.S.O. 1980,  
c. 302

**4.**—(1) Despite subsection 30 (1) of the *Municipal Act*, during the pre-election period, the council of the City shall be composed of,

- (a) a mayor, who shall be the person who was the mayor of the City of Sarnia on the 31st day of December, 1990;
- (b) a deputy mayor, who shall be the person who was the mayor of the Town of Clearwater on the 31st day of December, 1990;
- (c) a reeve, who shall be the person who was the reeve of the Town of Clearwater on the 31st day of December, 1990;
- (d) a deputy reeve, who shall be the person who was the deputy reeve of the Town of Clearwater on the 31st day of December, 1990; and
- (e) twelve other members,
  - (i) eight of whom shall be the persons who were the members of the council, except the mayor, of the City of Sarnia on the 31st day of December, 1990, and
  - (ii) four of whom shall be the persons who were the members of the council, except the mayor, reeve and deputy reeve, of the Town of Clearwater on the 31st day of December, 1990.

First meeting

(2) The first meeting of the council shall be held not later than the 8th day of January, 1991.

One vote

(3) Each member of council has one vote.

(4) Despite section 72 of the *Municipal Act*, if the mayor of the City is absent from the municipality or is unable or unwilling to act or the office of mayor is vacant, the deputy mayor shall act in the place of the mayor and, while so acting, has all the rights and powers of the mayor.

Acting mayor  
R.S.O. 1980,  
c. 302

**5.—**(1) The City shall consist of four wards as described in the Schedule.

Wards

(2) All wards in the former municipalities are dissolved.

Dissolution  
of former  
wards

**6.—**(1) Despite sections 30, 31, 32, 34 and 36 of the *Municipal Act*, but subject to section 7, the council of each local municipality shall be composed of a mayor, who shall be elected by a general vote of the electors of the local municipality and who shall be the head of the council, and the following other members:

Composition  
of councils

1. The City—eight members consisting of,

- i. four members who shall be elected by wards, one from each ward, as members of the council of the City and of the County Council, and
- ii. four members who shall be elected by wards, one from each ward, as members of the council of the City.

2. A town—six members who shall be elected by a general vote of the electors of the town.

3. A township—four members who shall be elected by a general vote of the electors of the township.

4. A village—four members who shall be elected by a general vote of the electors of the village.

(2) Each member of the council of a local municipality has one vote.

One vote

**7.—**(1) Upon the application of a local municipality under subsection 13 (2) of the *Municipal Act*, or upon the petition of electors under subsection 13 (3) of that Act, the Municipal Board may, by order,

O.M.B.  
order

- (a) divide or redivide the local municipality into wards and designate the name or number each ward shall bear and declare the date when the division or redivision takes effect;

- (b) alter or dissolve any or all of the wards in the local municipality and declare the date when the alteration or dissolution takes effect; and
- (c) vary the composition of the council of the local municipality.

Limitation on  
order

(2) No order made under subsection (1),

- (a) shall take effect before the 1st day of December, 1994; or
- (b) shall alter the total number of members who represent the local municipality on the County Council or the number of votes assigned to the members under this Act.

Idem

(3) Despite subsection (1), the mayor of the local municipality shall continue to be elected by a general vote of the electors of the local municipality and shall be the head of council of the local municipality and a member of the County Council.

Where  
inquiry by  
Minister

(4) Where the Minister is inquiring into the structure, organization and methods of operation of a local municipality or the County, the Minister may give notice to the Municipal Board of the inquiry and request that any application or petition made under subsection (1) be deferred until the inquiry has been completed.

Idem

(5) If notice is given under subsection (4), all proceedings in the application or petition are stayed until the Minister gives notice to the Municipal Board that they may be continued.

No board of  
control

(6) A local municipality shall not have a board of control.

By-laws,  
resolutions of  
former  
municipalities

**8.—**(1) Every by-law and resolution of a former municipality shall be deemed to be a by-law or resolution of the City and shall remain in force in the area of the former municipality until the earlier of,

- (a) the date it is amended or repealed by the council of the City; or
- (b) the 31st day of December, 1992.

By-laws,  
official plans  
under  
1983, c. 1

(2) Despite subsection (1), any by-law of a former municipality passed under section 34 of the *Planning Act, 1983*, or a predecessor of that section, and any official plan of a former



municipality approved under the *Planning Act, 1983*, or a predecessor of that Act, shall remain in force until amended or repealed. 1983, c. 1

(3) If a former municipality has commenced procedures to enact a by-law that requires the approval of a minister of the Crown, the Municipal Board or a provincial agency and the approval has not been obtained before the 31st day of December, 1990, the council of the City may continue the procedures to enact the by-law and subsection (1) applies with necessary modifications to the by-law. By-laws that require approval

(4) Nothing in this section repeals or authorizes the amendment or repeal of, By-laws, resolutions not affected

(a) by-laws or resolutions of the former municipalities passed under section 45, 58 or 61 of the *Drainage Act* or a predecessor of those sections; and R.S.O. 1980, c. 126

(b) by-laws or resolutions conferring rights, privileges, franchises, immunities or exemptions that could not have been lawfully repealed by the councils of the former municipalities.

9. Except as otherwise provided in this Act, the assets and liabilities of the former municipalities and their local boards become assets and liabilities of the City or a local board thereof without compensation, and the City and its local boards stand in the place of the former municipalities and their local boards. Assets and liabilities transferred to City

10. All taxes, charges or rates levied by a former municipality under any general or special Act that are due and unpaid on the 31st day of December, 1990 shall, after that date, be taxes, charges or rates due and payable to the City and may be collected and recovered by the City as if the taxes, charges or rates had been imposed by the City. Taxes, charges, rates transferred to City

11.—(1) Subject to subsection (4), on the 1st day of January, 1991, the committees of adjustment of the former municipalities are dissolved. Dissolution of committees of adjustment

(2) The City shall establish a committee of adjustment under section 43 of the *Planning Act, 1983*. City to establish committee of adjustment

(3) All applications to the committees of adjustment of the former municipalities shall be deemed to be applications to and shall be continued by the committee of adjustment of the City. Applications continued



Continuing  
matters

(4) The committees of adjustment dissolved under subsection (1) and the terms of office of the members of the committees shall continue to the 31st day of January, 1991 for the purpose of making a decision on any application for which a hearing is completed before the 1st day of January, 1991.

Dissolution  
of  
committees,  
boards under  
1982, c. 7,  
R.S.O. 1980,  
cc. 80, 417

**12.—**(1) The council of the City shall be deemed to be a recreation committee under the *Ministry of Tourism and Recreation Act, 1982*, a committee of management of a community recreation centre under the *Community Recreation Centres Act* and a board of park management under the *Public Parks Act* and all such committees and boards of the former municipalities are dissolved on the 1st day of January, 1991.

Idem

(2) All by-laws and resolutions of the boards and committees dissolved under subsection (1) are continued as by-laws and resolutions of the City, and shall remain in force until the earlier of,

(a) the date they are amended or repealed by the City;  
or

(b) the 31st day of December, 1992.

Certain  
by-laws,  
resolutions  
continue

(3) Nothing in this section repeals or authorizes the amendment or repeal of by-laws or resolutions conferring rights, privileges, franchises, immunities or exemptions that could not have been lawfully repealed by the boards and committees dissolved under subsection (1).

Repeal of  
certain  
by-laws,  
resolutions,  
appointments

**13.—**(1) Despite section 8,

(a) the by-laws and resolutions of the City of Sarnia establishing and appointing members to the Canada Day Committee, Committee of Parks and Recreation, Committee of Management of Marshall Gowland Manor, Planning Advisory Committee, Sarnia Heritage Committee and the Sarnia Museum Board, all of the City of Sarnia, are repealed;

(b) the by-laws and resolutions of the Town of Clearwater establishing and appointing members to the Planning Advisory Committee of the Town of Clearwater are repealed; and

(c) the terms of office of the appointees of the City of Sarnia to the Property Standards Committee of the City of Sarnia are terminated.

(2) Nothing in this section prevents the City from or relieves the City of any responsibility for establishing or making appointments to boards and committees. Appointments

**14.**—(1) Despite section 8, the City, on or before the 31st day of January, 1991, shall, Fire departments

(a) repeal the by-laws of the City of Sarnia and the Town of Clearwater establishing their respective fire departments; and

(b) establish a fire department for the City.

(2) Every person who is a member of the fire department of the City of Sarnia or the Town of Clearwater on the 1st day of July, 1990 and continues to be a member until the 31st day of December, 1990 becomes a member of the fire department established under clause (1) (b). Fire fighters

(3) In subsection (2), “member” means a full-time fire fighter and a volunteer fire fighter as defined in the *Fire Departments Act*. Definition  
R.S.O. 1980,  
c. 164

**15.** Except as otherwise provided in this Act, the City or a local board thereof shall offer to employ every person who was employed by a former municipality or a local board thereof on the 1st day of July, 1990 and who continued to be so employed until the 31st day of December, 1990. Offer of  
employment

**16.**—(1) The Police Village of Inwood and the Police Village of Florence are dissolved on the 1st day of January, 1991. Dissolution  
of police  
villages

(2) The Municipal Board, upon the application of a local municipality or a local board thereof or of its own motion, may exercise the powers under section 25 of the *Municipal Act* consequent upon the dissolutions. Further  
powers  
R.S.O. 1980,  
c. 302

(3) Sections 94 and 95 of the *Ontario Municipal Board Act* do not apply to decisions or orders made in the exercise of the powers under subsection (2). No further  
appeal  
R.S.O. 1980,  
c. 347

## PART II

### COUNTY COUNCIL

**17.** This Part applies despite sections 27, 28 and 29 of the *Municipal Act*. Application  
R.S.O. 1980,  
c. 302

Interim  
County  
Council

**18.**—(1) During the pre-election period, the County Council shall have thirty-seven members consisting of,

- (a) the mayor, reeve and deputy reeve of the City;
- (b) the reeve of the Village of Alvinston, the Village of Arkona, the Village of Oil Springs and the Village of Thedford; and
- (c) the reeve and deputy reeve of the Town of Forest, the Town of Petrolia, the Village of Grand Bend, the Village of Point Edward, the Village of Watford, the Village of Wyoming, the Township of Bosanquet, the Township of Brooke, the Township of Dawn, the Township of Enniskillen, the Township of Euphemia, the Township of Moore, the Township of Plympton, the Township of Sombra and the Township of Warwick.

Distribution  
of votes

(2) The members of the County Council under subsection (1) shall have a total of seventy-three votes of which,

- (a) the mayor of the City shall have ten votes;
- (b) the reeve and deputy reeve of the City shall each have nine votes;
- (c) the reeve of the Township of Bosanquet and the Township of Moore shall each have three votes;
- (d) the reeve of the Town of Petrolia, the Township of Enniskillen, the Township of Plympton and the Township of Sombra shall each have two votes;
- (e) the deputy reeve of the Township of Bosanquet, the Township of Moore and the Township of Plympton shall each have two votes; and
- (f) all other members shall have one vote.

First meeting

(3) The first meeting of the County Council shall be held after the council of the City has held its first meeting under subsection 4 (2) but, in any event, not later than the 15th day of January, 1991.

Warden  
R.S.O. 1980,  
c. 302

(4) Despite subsection 51 (1) of the *Municipal Act*, the County Council established under subsection (1) shall, at the first meeting at which a majority of the members is present, elect one of its members to be warden.



(5) The term of the warden of the County holding office on the 30th day of November, 1990 is extended until a new warden is elected under subsection (4). Term of office

**19.**—(1) The County Council shall be composed of, Composition of County Council

(a) the mayor of each local municipality; and

(b) the four county ward members of the council of the City.

(2) The members of the County Council under subsection (1) shall have a total of thirty-seven votes of which, Distribution of votes

(a) the mayor and each county ward member of the council of the City shall have three votes;

(b) the mayor of the Township of Bosanquet, the Township of Moore and the Township of Plympton shall each have two votes; and

(c) all other members shall have one vote.

(3) The County Council shall review the distribution of votes under subsection (2) on or before the 1st day of January, 2001. Review

**20.** The warden of the County Council shall bear the title of county warden. County warden

**21.** The seat of a mayor of a local municipality and the seat of a county ward member of the council of the City becomes vacant if his or her seat on the County Council is declared vacant by the County Council. Vacancies

**22.** The County or a local board thereof shall offer to employ every person who, on the 1st day of July, 1990, was employed in any undertaking carried on by or on behalf of any former or local municipality or local board thereof that is assumed by the County or a local board thereof under this Act and who continues to be so employed until the 31st day of December, 1990. Offer of employment

**23.**—(1) Every by-law and resolution of a former or local municipality in respect of any undertaking carried on by or on behalf of a former or local municipality that is assumed by the County under this Act shall be deemed to be a by-law or resolution of the County and shall remain in force in the area of the former or local municipality until the earlier of, By-laws, resolutions continued



- (a) the date it is amended or repealed by the council of the County; or
- (b) the 31st day of December, 1992.

By-laws that  
require  
approval

(2) If a former or local municipality has commenced procedures to enact a by-law that requires the approval of a minister of the Crown, the Municipal Board or a provincial agency and the approval has not been obtained before the 31st day of December, 1990, the council of the County may continue the procedures to enact the by-law and subsection (1) applies with necessary modifications to the by-law.

By-laws,  
resolutions  
not affected

(3) Nothing in this section repeals or authorizes the amendment or repeal of by-laws or resolutions conferring rights, privileges, franchises, immunities or exemptions that could not have been lawfully repealed by the councils of the former municipalities.

Assets and  
liabilities  
transferred to  
County

**24.** All assets and liabilities of a former or local municipality or a local board thereof in respect of any undertaking carried on by or on behalf of any former or local municipality or local board thereof that is assumed by the County or a local board thereof under this Act become assets and liabilities of the County or a local board thereof without compensation, and the County and its local boards stand in the place of the former or local municipalities and their local boards.

### PART III

#### FORMER MUNICIPALITIES

Agreement

**25.—**(1) The City of Sarnia and the Town of Clearwater shall enter into an agreement with respect to,

- (a) fee structures;
- (b) capital improvements;
- (c) the adequacy of public buildings;
- (d) maintenance of current levels of services;
- (e) shared capital expenditures;
- (f) impost fees;
- (g) capital improvements;
- (h) cash in lieu of parkland;

- (i) organizational structures;
- (j) the financing of capital expenditures;
- (k) capital budgets;
- (l) equipment reserve accounts;
- (m) contributions to reserve accounts;
- (n) shoreline protection;
- (o) public transit;
- (p) rural water supply;
- (q) water meters; and
- (r) major recreation complexes.

(2) The councils of the County, the City of Sarnia and the Town of Clearwater shall establish a joint implementation committee to make recommendations with respect to the agreement and any other matter set out in this Act.

Joint  
committee

(3) The joint committee shall submit its recommendations to the Minister on or before the 1st day of May, 1990.

Recommendations to be submitted to Minister

(4) Subject to any other Act, the Lieutenant Governor in Council may, upon the recommendation of the Minister, by order give effect to any recommendation of the joint committee.

Order effecting recommendations

## PART IV

### SARNIA HYDRO

**26.—**(1) A hydro-electric power commission for the City is hereby established on the 1st day of January, 1991 and shall be deemed to be a commission established under Part III of the *Public Utilities Act* and a municipal commission within the meaning of the *Power Corporation Act*.

Hydro  
commission

R.S.O. 1980,  
cc. 423, 384

(2) Despite section 41 of the *Public Utilities Act*, the hydro-electric power commission shall,

Composition  
of  
commission

(a) during the pre-election period, be composed of,

- (i) the members of the commission dissolved under subsection (5), and

- (ii) the deputy mayor and reeve of the City; and
- (b) after the pre-election period, be composed of,
  - (i) the mayor of the City, and

R.S.O. 1980,  
c. 308

- (ii) four other members who are qualified electors in the City under the *Municipal Elections Act* who shall be elected by a general vote of the electors of the City.

Term of  
office

(3) A member of the commission shall hold office for the same term as the members of council or until the successor of the member is elected or appointed.

Delegate of  
mayor

(4) The council of the City may by by-law, passed with the written consent of the mayor, appoint a delegate from among the members of the council to represent the mayor on the commission.

Dissolution

(5) The Hydro-Electric Commission of the City of Sarnia is dissolved on the 1st day of January, 1991.

Transfer of  
assets,  
liabilities

(6) On the 1st day of January, 1991, the assets of the Town of Clearwater, the assets under the control and management of the commission dissolved under subsection (5) and the liabilities of the Town of Clearwater and of such commission that relate to the distribution and supply of electrical power become assets under the control and management of and liabilities of the commission established under subsection (1), without compensation.

Purchase of  
retail  
distribution  
facilities from  
Ontario  
Hydro

(7) On the 1st day of January, 1991, the commission established under subsection (1) shall acquire the retail distribution facilities within the Town of Clearwater used by Ontario Hydro on the 31st day of December, 1990 in the retail distribution of power, including equipment leased by Ontario Hydro to retail customers within the Town of Clearwater for the use of such power, and the price of the facilities shall be equal to the original cost of the facilities less the sum of the accumulated net retail equity of the customers supplied with power through the facilities and the accumulated depreciation associated with the facilities.

Definitions

(8) In subsection (7),

“accumulated net retail equity” means the portion of the equity accumulated through debt retirement appropriations recorded for the rural power district relating to Ontario Hydro’s rural retail system plus the portion of the balance

recorded for rural retail customers in the Stabilization of Rates and Contingencies Account, in the books of Ontario Hydro;

“retail distribution facilities” means works for the transmission and supply of power at voltages less than 50 kilovolts other than works located within a transformer station that transforms power from voltages greater than 50 kilovolts to voltages less than 50 kilovolts.

(9) All by-laws and resolutions of the Town of Clearwater and of the commission dissolved under subsection (5) that relate to the distribution and supply of electrical power are continued as by-laws and resolutions of the commission established under subsection (1), and shall remain in force until the earlier of,

Continuation  
of by-laws,  
resolutions

(a) the date they are amended or repealed by the commission; or

(b) the 31st day of December, 1992.

(10) Nothing in this section repeals or authorizes the amendment or repeal of by-laws or resolutions conferring rights, privileges, franchises, immunities or exemptions that could not have been lawfully repealed by the Town of Clearwater or by the commission dissolved under subsection (5).

Certain  
by-laws,  
resolutions  
remain  
effective

PART V

POLICE

**27.—**(1) On the 1st day of January, 1990, The Board of Commissioners of Police of the City of Sarnia and The Board of Commissioners of Police of the Town of Clearwater are amalgamated and the new board shall be deemed to be a board established under section 8 of the *Police Act*.

Boards of  
Commissioners of  
Police

R.S.O. 1980,  
c. 381

(2) Despite section 8 of the *Police Act*, from the 1st day of January, 1990 to the 30th day of November, 1991, inclusive, the board shall be composed of the members of the boards amalgamated under this section.

Interim  
board

(3) On and after the 1st day of December, 1991, the board shall be composed of those members provided for under section 8 of the *Police Act*.

Composition  
of board



Temporary  
name

(4) During 1990, the board shall be called "The Board of Commissioners of Police of the City of Sarnia and the Town of Clearwater".

Police service

(5) During 1990, the board is responsible for providing police service for the City of Sarnia and the Town of Clearwater and, for the purpose of exercising its powers under any general or special Act, the City of Sarnia and the Town of Clearwater shall be deemed to be amalgamated as a city municipality.

Idem

(6) On and after the 1st day of January, 1991, the board is responsible for providing police service for the City.

Local board

**28.**—(1) During 1990, the board shall be deemed to be a local board of the City of Sarnia and not of the Town of Clearwater.

Rights  
protected

(2) Despite subsection (1), a resident or elector of the Town of Clearwater has the same rights and privileges as a resident or elector of the City of Sarnia relating to police matters.

Transfer to  
City

(3) On the 1st day of January, 1991, the board shall continue as the board of commissioners of police of the City and a local board of the City.

Estimates

R.S.O. 1980,  
c. 381

**29.**—(1) The board shall, in preparing its 1990 estimates under subsection 14 (2) of the *Police Act*, show separately the amount required to provide police service in the Town of Clearwater and in the City of Sarnia.

Idem

R.S.O. 1980,  
c. 302

(2) The amount of the estimates for providing police service in the Town of Clearwater shall be deemed to be a debt of the Town of Clearwater falling due in 1990 for the purposes of section 164 of the *Municipal Act*, and the Town of Clearwater shall pay this amount to the City of Sarnia no later than the 30th day of June, 1990.

Disagree-  
ments

(3) If there is a disagreement between the City of Sarnia and the Town of Clearwater on how the estimates are broken down under subsection (1), the City of Sarnia or the Town of Clearwater may refer the matter to the Ontario Police Commission and the decision of the Ontario Police Commission is final.

Transfer of  
assets,  
liabilities

**30.** On the 1st day of January, 1990, the assets under the control and management of the boards amalgamated under subsection 27 (1) and all liabilities of such boards become

assets under the control and management of and liabilities of the board, without compensation.

**31.—**(1) On the 1st day of January, 1990, all by-laws and resolutions of the boards amalgamated under subsection 27 (1) are continued as by-laws and resolutions of the board and shall remain in force in the former municipality for which they were passed until the earlier of,

Continuation  
of by-laws,  
resolutions

(a) the date they are amended or repealed by the board; or

(b) the 31st day of December, 1990.

(2) Nothing in this section repeals or authorizes the amendment or repeal of by-laws or resolutions conferring rights, privileges, franchises, immunities or exemptions that could not have been lawfully repealed by the boards amalgamated under subsection 27 (1).

Certain  
by-laws,  
resolutions  
remain  
effective

**32.** On and after the 1st day of January, 1991, the board and the members of the police force of the City shall have the same duties with respect to by-laws of the County as they do with respect to by-laws of the City.

Responsi-  
bility for  
County  
enforcement

**33.** Every person who is a member of the police force of the Town of Clearwater or of the police force of the City of Sarnia on the 1st day of July, 1989, and who continues to be a member until the 31st day of December, 1989, becomes on the 1st day of January, 1990 a member of the police force created by the amalgamation under subsection 27 (1).

Transfer of  
police  
personnel

## PART VI

### BOUNDARY ADJUSTMENTS

**34.—**(1) This Part applies to applications made to the Minister under section 2 of the *Municipal Boundary Negotiations Act, 1981*, that are being processed on the day this Part comes into force, and to future applications made under that section before the 1st day of January, 1991, to resolve an intermunicipal boundary issue or an intermunicipal boundary-related issue in the County.

Application  
of  
1981, c. 70

(2) Subsection (1) does not apply to an issue involving a boundary of the County unless, in the opinion of the Minister, that issue is of a minor nature.

Idem

1981, c. 70  
does not  
apply

(3) Except as otherwise provided in this Part, the *Municipal Boundary Negotiations Act, 1981* does not apply to an application to which this Part applies.

Exception

(4) Sections 15 to 21 of the *Municipal Boundary Negotiations Act, 1981* apply with necessary modifications to an application to which this Part applies and to an order made under section 40.

Boundary  
application  
committee

**35.**—(1) The warden of County Council shall, within thirty days of this Part coming into force, appoint a boundary application committee.

Composition  
of committee

(2) The committee shall have five members consisting of,

- (a) the warden;
- (b) two members of County Council representing towns or villages; and
- (c) two members of County Council representing townships.

Presiding  
officer

(3) The members of the committee shall appoint a presiding officer.

Guidelines

**36.** The committee shall establish guidelines for considering boundary applications in consultation with the Ministry of Municipal Affairs.

Duties of  
committee

**37.**—(1) For each application to which this Part applies, the committee shall, having regard for the guidelines established under section 36,

- (a) determine and inquire into the issues raised by the application;
- (b) determine the party municipalities which have a substantial interest in the issues raised; and
- (c) obtain the opinion of the party municipalities and of any local board that the committee considers is affected by the application, on the issues raised by the application.

Idem

(2) Subject to subsections (4) and (5), the committee shall prepare and submit to County Council a report setting out,

- (a) the issues;



- (b) the party municipalities in respect of each issue;
- (c) the extent of agreement or disagreement on the issues;
- (d) any agreement the party municipalities have reached on any of the issues;
- (e) the recommendations of the committee on how the issues raised by the application should be resolved; and
- (f) any other matters the committee considers appropriate.

(3) The committee may make recommendations under clause (2) (e) with respect to, Recommendations

- (a) the matters set out in paragraphs 1 to 24 of section 14 of the *Municipal Boundary Negotiations Act, 1981*; 1981, c. 70

- (b) the name of a local municipality; and

- (c) in the event the committee recommends an amalgamation, how the County Council votes of the mayors of the municipalities being amalgamated should be distributed to the local municipalities, other than the City, that would exist after such amalgamation.

(4) The committee shall, before preparing its report, hold at least one public meeting for the purpose of obtaining information, comments or opinions regarding the application. Public meeting

(5) The committee shall, after preparing its report and before submitting it to County Council, hold at least one public meeting for the purpose of obtaining submissions and comments from the public in respect of the contents of the report. Idem

(6) The committee may amend its report after the public meeting required under subsection (5) and before submitting it to County Council. Amendments to report

(7) Notice of a public meeting required under subsection (4) or (5) shall be given at least fifteen days in advance of each meeting by publishing it in a newspaper having general circulation in the party municipalities. Notice of meeting



County  
proposal

**38.**—(1) The County Council shall consider the report of the committee and shall, within sixty days after receiving the report and having regard to the guidelines established by the committee under section 36, submit to the Minister a proposal with respect to the resolution of the issues raised by the application.

Recommendations

(2) The proposal may contain recommendations with respect to the matters set out in subsection 37 (3).

Action by  
Minister

**39.** The Minister shall, within sixty days of receipt of the proposal,

- (a) submit to the Lieutenant Governor in Council a recommendation with respect to one or more of the matters set out in subsection 37 (3);
- (b) refer any issue back to County Council or the committee for further consideration;
- (c) terminate further consideration of the application;
- (d) refer any issue to the Municipal Board to hear any party municipality and, after a hearing, to make recommendations thereon; or
- (e) take such other action as the Minister considers appropriate.

Order

**40.** Upon receipt of the recommendation of the Minister, the Lieutenant Governor in Council may by order provide for one or more of the matters set out in subsection 37 (3).

## PART VII

### ASSUMPTION OF LOCAL POWERS BY THE COUNTY

Local power

**41.**—(1) In this Part, “local power” means a power that is conferred by any general or special Act on local municipalities or local boards thereof and that is prescribed by the Minister.

Assumption  
of local  
power

(2) The County Council may pass by-laws to assume any local power for all of the local municipalities.

Double  
majority vote

(3) No by-law under subsection (2) shall be passed or repealed unless,

- (a) a majority of all the votes on County Council are cast in its favour; and

- (b) members of County Council representing a majority of the local municipalities cast their votes in its favour.

(4) For the purpose of clause (3) (b), the members of County Council representing the City shall only be considered to have cast their votes in favour of a by-law if at least three of the City representatives cast their votes in its favour. Idem

(5) When a by-law passed under subsection (2) comes into effect, Effect of by-law

- (a) the County is responsible for the local powers assumed by the County in all of the local municipalities;

- (b) the County has the powers conferred by any general or special Act upon the local municipalities or local boards thereof related to the local powers assumed by the County;

- (c) no local municipality shall exercise the local powers assumed by the County and any by-law or other measure of a local municipality under that power is of no effect; and

- (d) no local municipality shall provide any service or facility under the local power assumed by the County within the County without the consent of County Council, which consent may be given upon such conditions, including the payment of compensation, as may be agreed upon.

(6) If consent is refused under clause (5) (d) or the council of the local municipality and the County Council fail to agree on the conditions related to the consent, the applicant may appeal to the Municipal Board which shall hear and determine the matter. Appeal to O.M.B.

(7) The Municipal Board may impose such conditions as it considers appropriate and the decision of the Municipal Board is final. Decision of Board final

(8) Section 94 of the *Ontario Municipal Board Act* does not apply to a decision made under subsection (7). No further appeal

**42.**—(1) All rights, obligations, assets and liabilities of a local municipality or local board thereof pertaining to the local powers assumed by the County are vested in the County and financial adjustments, calculated in accordance with such R.S.O. 1980, c. 347  
Transfer of rights, obligations, etc.

criteria as may be prescribed, shall be made between the County and the local municipalities or local boards thereof.

Assumption  
by County of  
debt

(2) The County shall pay to the local municipality or local board thereof on or before the due date all amounts of principal and interest becoming due upon any outstanding debt of that local municipality or local board in respect of the local powers assumed by the County.

Interest

(3) If the County fails to make any payment required under subsection (2) on or before the due date, the local municipality or local board may charge the County interest at the rate of 15 per cent per annum, or such lower rate as the local municipality or local board determines, from the due date until payment is made.

Agreements

**43.**—(1) If a local municipality or local board thereof had entered into an agreement with any municipality or other person in respect of the local power assumed by the County, the County shall be bound by the agreement and the local municipality or local board thereof is relieved of all liability under the agreement.

Idem

(2) The County Council may enter into agreements with any municipality or other person for establishing, constructing, operating or managing, at their joint expense and for their joint benefit, any service or facility that is within the jurisdiction of the County Council as a result of the passage of the by-law under subsection 41 (2).

Rates  
R.S.O. 1980,  
c. 302

**44.**—(1) Despite sections 368 and 368e of the *Municipal Act*, the County Council may by by-law provide for imposing on and collecting from the local municipalities for which it is providing services or facilities under the assumed local powers a rate sufficient to pay the whole, or such portion as the by-law may specify, of the expenditures and capital costs including debenture charges related to the services or facilities and such rate may vary on any basis the County Council considers appropriate and specifies in the by-law.

Idem

(2) All rates under subsection (1) constitute a debt of the local municipality to the County and are payable at such times and in such amounts as may be specified by by-law of the County Council.

Collection of  
rates

(3) Despite sections 368 and 368e of the *Municipal Act*, a local municipality may,

- (a) pay the whole or part of the amount chargeable to it under this section out of its general funds;



- (b) pass by-laws for collecting the whole or part of the amount chargeable to it under this section in the same manner as that local municipality could have collected the amount if the local power had not been assumed by the County; and
- (c) include the whole or any part of an amount chargeable to it under this section as part of the cost of an urban service within an urban service area established in the local municipality under any general or special Act.

**45.—**(1) When a by-law under subsection 41 (2) is repealed, Repeal of  
by-law

- (a) the local powers assumed by the County revert to the local municipalities and local boards thereof as they exist on the day the by-law is repealed;
- (b) all rights, obligations, assets and liabilities of the County or local board thereof pertaining to the local powers are vested in the local municipalities or local boards thereof;
- (c) financial adjustments, calculated in accordance with such criteria as may be prescribed, shall be made between the County or local board thereof and the local municipalities or local boards thereof; and
- (d) the local municipalities or local boards thereof shall pay to the County or local board thereof on or before the due date all amounts of principal and interest becoming due upon any outstanding debt of the County or local board thereof in respect of the local powers reverting to the local municipalities or local boards thereof.

(2) If the local municipalities or local boards thereof fail to make any payment required under clause (1) (d) on or before the due date, the County or local board thereof may charge the local municipalities or local boards thereof interest at the rate of 15 per cent per annum, or such lower rate as the County or local board thereof determines, from the due date until payment is made. Interest

(3) If the County or local board thereof had entered into an agreement with any municipality or other person in respect of the local power reverting to the local municipalities or local boards thereof, the local municipalities or local boards thereof Agreements



are bound by the agreement and the County or local board thereof is relieved of all liability under the agreement.

Disputes

**46.**—(1) If a dispute arises in respect of the financial adjustments or the vesting of assets and liabilities under subsection 42 (1) or clause 45 (1) (b), or the transfer of agreements under subsection 43 (1) or subsection 45 (3), the County, local municipality or local board affected may apply to the Municipal Board for a resolution of the dispute and the Municipal Board shall hear and determine the matter and its decision is final.

R.S.O. 1980,  
c. 347, s. 94  
does not  
apply

(2) Section 94 of the *Ontario Municipal Board Act* does not apply to a decision made under subsection (1).

Regulations

**47.**—(1) The Lieutenant Governor in Council may make regulations,

- (a) providing for the security of employment, the protection of benefits, including seniority and pensions, and early retirement options for employees affected by by-laws passed or repealed under this section;
- (b) prescribing the criteria for determining the amount of and the manner of payment of the financial adjustments under subsections 42 (2) and 45 (1) and for providing which body shall pay and which body shall receive the payments made under those subsections.

Minister's  
order

(2) The Minister may by order prescribe the local powers to which this Part applies.

## PART VIII

### WASTE DISPOSAL

Definition

**48.** In this Part, "waste" means garbage, refuse, domestic waste, industrial solid waste or municipal refuse and such other waste as may be designated by by-law of the County Council.

County waste  
facilities

**49.**—(1) On and after the 1st day of January, 1991, the County shall provide facilities for receiving, dumping and disposing of waste and no local municipality or local board thereof shall provide such facilities.

County  
powers

(2) For the purposes of subsection (1), the County Council has the powers conferred by any general or special Act upon

the local municipalities and local boards thereof for the receiving, dumping and disposing of waste.

(3) The County Council may, for each local municipality, designate one or more facilities for the receiving, dumping and disposing of waste or any class thereof. Designated facilities

(4) If a designation has been made, a local municipality shall not utilize any facilities except the facilities that have been designated for that local municipality. Idem

**50.**—(1) No facilities for the receiving, dumping and disposing of waste shall be provided in the County by any municipality or other person without the consent of the County Council, which consent may be given upon such terms, including the payment of compensation, as may be agreed upon. Waste disposal, County responsibility

(2) Subsection (1) does not apply to prevent any person or any municipality which does not form part of the County for municipal purposes from providing facilities for the receiving, dumping and disposing of waste if such facilities were being lawfully provided on the 1st day of January, 1991, so long as that facility continues to operate without interruption. Existing facilities

(3) If the County Council refuses its consent under subsection (1) or the applicant and the County Council fail to agree on the terms related to the consent, the applicant may appeal to the Municipal Board which shall hear and determine the matter and may impose such conditions as the Board considers appropriate. Disagreements to O.M.B.

(4) The decision of the Municipal Board is final. Decision final

(5) Section 94 of the *Ontario Municipal Board Act* does not apply to a decision made under subsection (3). R.S.O. 1980, c. 347, s. 94 does not apply

**51.** The County Council may enter into agreements with any municipality or other person for establishing, constructing, operating or managing, at their joint expense and for their joint benefit, facilities for the receiving, dumping and disposing of waste. Agreements

**52.** Section 42, subsection 43 (1), section 44 and clause 47 (1) (b) apply with necessary modifications to the powers granted to the County under this Part to provide facilities for receiving, dumping and disposing of waste. Adoption of certain provisions

**53.** If a dispute arises in respect of the financial adjustments or the vesting of assets and liabilities, or the transfer of Disputes

agreements under this Part, the board of arbitrators established under section 80 has the power to hear and determine the matter.

## PART IX

### COUNTY ROAD SYSTEM

County roads

**54.** On and after the 1st day of January, 1991, all roads under the jurisdiction and control of the County shall continue to form part of the county road system together with,

- (a) the roads that on the 31st day of December, 1990 are under the jurisdiction and control of the Sarnia Suburban Roads Commission;
- (b) the roads within the City prescribed by the Minister; and
- (c) the roads that on the 31st day of December, 1990 are covered by an agreement under section 58 of the *Public Transportation and Highway Improvement Act*.

R.S.O. 1980,  
c. 421

Dissolution  
of roads  
commission

**55.**—(1) The Sarnia Suburban Roads Commission is dissolved on the 1st day of January, 1991 and the assets and liabilities of the commission are transferred to the County on that date.

Transfer of  
benefits,  
liabilities

(2) The County has, in respect of the roads included in the county road system, all the rights, powers and benefits conferred and is subject to all liabilities imposed by statute, by-law, contract or otherwise upon the Sarnia Suburban Roads Commission.

Assumption  
of highways  
by County  
R.S.O. 1980,  
c. 302

**56.**—(1) Despite subsections 270 (1), (2) and (4) of the *Municipal Act*, the County Council may by by-law assume as a county road any highway within a local municipality.

Consent  
required

(2) A by-law passed under subsection (1) does not take effect until assented to by the council of the local municipality.

Connecting  
roads

(3) The County Council may by by-law assume as a county road any highway in a local municipality that connects with a county road.

R.S.O. 1980,  
c. 421, ss.  
58, 59 do  
not apply

**57.**—(1) Sections 58 and 59 of the *Public Transportation and Highway Improvement Act* do not apply to the County or the local municipalities.



(2) All existing agreements between the County and a local municipality under section 58 of the *Public Transportation and Highway Improvement Act* are terminated on the 1st day of January, 1991. Existing agreements

**58.**—(1) Despite subsections 278 (1) and (2) of the *Municipal Act*, a bridge that, on the 31st day of December, 1990, is under the exclusive or joint jurisdiction and control of County Council is on the 1st day of January, 1991 transferred to and vested in the council of the local municipality that has jurisdiction over the highway on which the bridge is situate. Bridges  
R.S.O. 1980,  
c. 302

(2) Subsection (1) does not apply to bridges, Limitation

(a) on county roads;

(b) on a boundary line between local municipalities; or

(c) on a county boundary line.

**59.** The Minister may by order prescribe the roads within the City which are county roads. Minister's order

## PART X

### HEALTH AND SOCIAL SERVICES

**60.**—(1) On and after the 1st day of January, 1991, the Lambton Health Unit shall be composed of, Lambton Health Unit

(a) not more than six members appointed from and by the County Council; and

(b) not more than two persons appointed by the Lieutenant Governor in Council upon the recommendation of the Minister of Health.

(2) Despite any other Act, the expenses incurred by the Lambton Health Unit in establishing and maintaining the health unit and performing its functions under the *Health Protection and Promotion Act*, 1983 or any other Act shall be paid by the County. County responsible for expenses  
1983, c. 10

**61.** For the purposes of the *General Welfare Assistance Act*, no local municipality shall be deemed to be a municipality and the County shall have sole responsibility as a County for all matters provided for in that Act. County responsible under  
R.S.O. 1980,  
c. 188

**62.**—(1) The homes for the aged known as Twilight Haven, North Lambton and Marshall Gowland, and all assets Homes for the aged



and liabilities thereof, vest solely in the County on and after the 1st day of January, 1991.

No local  
municipality  
has authority  
under  
R.S.O. 1980,  
c. 203

(2) No local municipality has authority to establish, erect or maintain a home for the aged under the *Homes for the Aged and Rest Homes Act*.

Costs

(3) The costs of operating and maintaining Twilight Haven, North Lambton and Marshall Gowland shall form part of the levy under section 164 of the *Municipal Act*.

R.S.O. 1980,  
c. 302

1984, c. 55  
does not  
apply to local  
municipality

**63.** No local municipality shall be deemed to be a municipality for the purposes of the *Child and Family Services Act, 1984*.

Information  
to be  
provided to  
County

**64.** Every local municipality and every officer or employee thereof shall, at the request of the officers of the County who are responsible for the administration of the Acts referred to in this Part, furnish to the County officers any information they may require for the purposes of this Act.

## PART XI

### PUBLIC LIBRARIES

County  
library board

**65.—(1)** A county library board for the entire County to be known as "The Lambton County Library Board" is hereby established on the 1st day of January, 1991 and shall be deemed to be a county library board established under Part I of the *Public Libraries Act, 1984*.

1984, c. 57

Composition  
of board

(2) Subsection 9 (5) of the *Public Libraries Act, 1984* applies to the county library board.

Transfer of  
assets,  
liabilities to  
county  
library board

(3) All library boards of the County, local municipalities and former municipalities are dissolved on the 1st day of January, 1991 and their assets and liabilities are transferred to the county library board established under subsection (1), without compensation.

Continuation  
of by-laws,  
etc.

(4) All by-laws, rules, regulations and fees passed or established by the boards dissolved under subsection (3) are continued as by-laws, rules, regulations and fees of the county library board and shall remain in force until the earlier of,

(a) the date they are amended or repealed by the board; or

(b) the 31st day of December, 1992.

(5) Nothing in this section repeals or authorizes the amendment or repeal of by-laws conferring rights, privileges, franchises, immunities or exemptions that could not have been lawfully repealed by a board dissolved under subsection (3).

Certain  
by-laws  
continued

**66.** The County shall pay to each local municipality, on or before the due date, all amounts of principal and interest becoming due upon any outstanding debt of each local municipality in respect of public libraries and, if the County fails to pay the amounts before the due date, the local municipality may charge the County interest at the annual rate of 15 per cent, or such lower rate as the local municipality determines, from the due date until payment is made.

Debt  
transferred to  
County

**67.** Every person who was an employee of a board dissolved under this Part on the 1st day of July, 1990, and continues to be employed until the 31st day of December, 1990, becomes, on the 1st day of January, 1991, an employee of the county library board.

Transfer of  
employees

## PART XII

### FINANCES

**68.** In this Part,

Definitions

"average municipal commercial mill rate" means, in respect of a local municipality, the rate obtained by dividing the total of taxes levied for all purposes, other than for school purposes and other than under sections 32 and 33 of the *Assessment Act*, on the commercial assessment for the preceding year by the total commercial assessment for the preceding year and multiplying the result by 1,000;

R.S.O. 1980,  
c. 31

"commercial assessment" means commercial assessment as defined in clause 1 (1) (b) of the *Ontario Unconditional Grants Act*;

R.S.O. 1980,  
c. 359

"discounted assessment" means, for a local municipality or for a merged area, the sum of,

- (a) the product obtained by multiplying the residential and farm assessment for that local municipality or that merged area by 0.5131, and
- (b) the commercial assessment for that local municipality or that merged area;

"discounted equalized assessment" means, for each local municipality, the sum of the discounted assessment and the

equivalent assessment of that local municipality divided by its prescribed equalization factor and multiplied by 100;

“discounted equalized assessment for each merged area” means the discounted assessment of the merged area divided by its prescribed equalization factor and multiplied by 100;

R.S.O. 1980,  
c. 302

“equivalent assessment” means, for a local municipality, that portion of its payments in lieu of taxes in the preceding year, as defined in clause 365 (1) (j) of the *Municipal Act*, not allocated for school purposes, divided by the average municipal commercial mill rate and multiplying the result by 1,000;

“merged area” means the area of the City of Sarnia or the area of the Town of Clearwater;

“net county levy” means the amount required for County purposes under subsection 365 (6) of the *Municipal Act* including the sums required for any board, commission or other body, apportioned to each local municipality by the County;

“net lower tier levy” means the amount required for the purposes of a local municipality under section 164 of the *Municipal Act* including the sums required for any board, commission or other body, but excluding amounts required to be raised for County and school purposes or for a special rate imposed under section 79;

R.S.O. 1980,  
c. 359

“residential and farm assessment” means residential and farm assessment as defined in clause 7 (1) (e) of the *Ontario Unconditional Grants Act*.

Prescribed  
equalization  
factor

**69.**—(1) For purposes of apportioning the net county levy or the net lower tier levy among the respective merged areas, the Minister may, in each year, prescribe the equalization factor to apply for that year to each local municipality within the County and each merged area.

Annual  
County  
apportionment

(2) Despite subsection 365 (6) of the *Municipal Act*, the treasurer of the County shall determine,

- (a) the discounted equalized assessment of each local municipality in the County;
- (b) the discounted equalized assessment of the County; and



- (c) the percentage share of apportionment, correct to three decimal places, for each local municipality by dividing the discounted equalized assessment for each local municipality by the discounted equalized assessment of the County and multiplying the result by 100.

**70.**—(1) In each year, the Ministry of Municipal Affairs shall calculate and notify the City of the discounted equalized assessment for each merged area. Annual merged area apportionment

(2) Despite subsection 7 (2) of the *Ontario Unconditional Grants Act*, the net county levy and the net lower tier levy of the City shall be levied against the whole rateable property, including business assessment thereon, of the City and apportioned between the merged areas of the City in the proportion that the discounted equalized assessment for each merged area bears to the total discounted equalized assessment of both merged areas. How levies apportioned  
R.S.O. 1980,  
c. 359

(3) The rates to be levied in each merged area of the City shall be determined in accordance with subsection 7 (3) of the *Ontario Unconditional Grants Act*. Determination of rates

**71.**—(1) Despite section 70, the council of the City may by by-law in any year, before the adoption of the estimates for that year, levy in each of the merged areas, on the whole of the assessment for real property, including business assessment in the merged area, according to the last returned assessment roll, a sum not exceeding 50 per cent of that which would be produced by applying to such assessment the total rate for all purposes levied in the merged area in the preceding year on residential real property of public school supporters. Interim levy

(2) The amount of any levy under subsection (1) shall be deducted from the amount of the levy made under subsection 70 (2). Adjustments

(3) Subsection 159 (5) of the *Municipal Act* applies to levies made under subsection (1). Application of  
R.S.O. 1980,  
c. 302,  
s. 159 (5)

**72.**—(1) For the purposes of levying taxes under Part IV of the *Education Act*, the merged areas shall be deemed to be municipalities, and the council of the City shall be deemed to be the council of each merged area. Merged areas under  
R.S.O. 1980,  
c. 129

(2) The Lieutenant Governor in Council may each year make regulations providing for the apportionment of the sums Regulations



required by the Lambton County Board of Education and The Lambton County Roman Catholic Separate School Board with respect to any local municipality or merged area or parts thereof that are wholly or partly within their area of jurisdiction.

Where  
county-wide  
assessment  
R.S.O. 1980,  
c. 302

**73.** Sections 69, 70, 71 and 72 of this Part and sections 365, 366 and 368 of the *Municipal Act* cease to apply to the County and the local municipalities if the County has been subject to an assessment update under section 368b of the *Municipal Act*.

Direction of  
Minister of  
Revenue

**74.**—(1) Despite subsections 368b (3) and (3a) of the *Municipal Act*, in 1991, for the purposes of taxation in 1992, the Minister of Revenue shall make a direction under subsection 368b (2) of the *Municipal Act* for changes to be made to the assessment rolls of the local municipalities.

Grants

(2) If the Minister is of the opinion that taxes for school purposes in a local municipality may be unduly increased because of changes made to the assessment rolls of local municipalities as a result of a direction under subsection (1), the Minister may make a grant to the local municipality under such terms as the Minister considers necessary in the circumstances.

Grant to be  
used to  
reduce  
increases

(3) If, in any year, a local municipality receives a grant under subsection (2), the local municipality shall, in that year, use the grant to reduce the increases in the amounts the local municipality is required to levy for school purposes.

Certain  
by-laws not  
affected

(4) Nothing in this Part prevents or restricts a local municipality from passing by-laws under section 362 or 363 of the *Municipal Act*.

1991 City  
rates

**75.**—(1) In 1991, the council of the City shall, in the manner prescribed by the Minister, levy on the whole of the assessment for real property and business assessment according to the last returned assessment roll pertaining to the merged area of the Town of Clearwater rates of taxation for general purposes which shall not be increased over the 1990 rates by more than the lesser of,

- (a) 3.5 per cent of the rates of taxation for general purposes in the Town of Clearwater in 1990; and
- (b) the rate of inflation for the calendar year of 1990, as determined by the Consumer Price Index published by Statistics Canada.

(2) In 1992, the council of the City shall, in the manner prescribed by the Minister, levy on the whole of the assessment for real property and business assessment according to the last returned assessment roll pertaining to the merged area of the Town of Clearwater rates of taxation for general purposes which shall limit the aggregate levy for general purposes upon the merged area to the lesser of,

1992 City  
rates

- (a) 103.5 per cent of the dollar amount levied for general purposes in the merged area of the Town of Clearwater in 1991; and
- (b) 100 per cent plus the rate of inflation for the calendar year of 1991, as determined by the Consumer Price Index published by Statistics Canada, of the dollar amount levied for general purposes in the merged area of the Town of Clearwater in 1991.

(3) In 1993, the council of the City shall, in the manner prescribed by the Minister, levy on the whole of the assessment for real property and business assessment according to the last returned assessment roll pertaining to the merged area of the Town of Clearwater rates of taxation for general purposes which shall not be increased over the 1992 rates by more than the lesser of,

1993 City  
rates

- (a) 3.5 per cent of the rates of taxation for general purposes in the merged area of the Town of Clearwater in 1992; and
- (b) the rate of inflation for the calendar year of 1992, as determined by the Consumer Price Index published by Statistics Canada.

(4) In 1994, 1995, 1996, 1997, 1998, 1999 and 2000, the council of the City shall, in the manner prescribed by the Minister, levy on the whole of the assessment for real property and business assessment according to the last returned assessment roll pertaining to the merged area of the Town of Clearwater rates of taxation for general purposes which are different from the rates which would have been levied for such purposes but for this subsection.

Rates,  
subsequent  
years

(5) If the Minister has made an order under this section which results in a reduction in the taxes which would have otherwise been levied in any year, the amount of the reduction shall be charged to the general funds of the City in that year.

Where taxes  
reduced

Adjustments  
of grant total

**76.**—(1) The Minister may by order on such conditions as the Minister considers appropriate provide for payments to be made to the City so that in each of the years 1991, 1992 and 1993 the total of all grants received by the City under the *Ontario Unconditional Grants Act* pertaining to the merged area of the Town of Clearwater and payments under this subsection is not less than the total of all grants received by the Town of Clearwater under the *Ontario Unconditional Grants Act* in 1990.

R.S.O. 1980,  
c. 359

Minister's  
order

(2) The Minister may by order before the 1st day of January, 2000, on such conditions as the Minister considers appropriate, make grants or loans to the County and the local municipalities to achieve the purposes of this Act.

Appropri-  
ations

**77.** The money required for the purposes of this Act shall be paid out of the money appropriated therefor by the Legislature.

Adjustments  
of grants  
under  
R.S.O. 1980,  
c. 359

**78.**—(1) A grant under the *Ontario Unconditional Grants Act* to the County or a local municipality in any year in which an incorporation, a major boundary change or a major change in responsibility for the delivery of any service took place during that year shall be revised to reflect the incorporation, the boundary change or the change in the delivery of services.

Adjustment  
of grants by  
Minister

(2) If, in any year, there is an overpayment or underpayment of grants paid to the County or a local municipality as a result of a revision under subsection (1), the Minister shall adjust any grant paid to the County or a local municipality in the immediately following year by the amount of the overpayment or underpayment.

Definitions

**79.**—(1) In this section,

“urban service” means a service of the City not being provided generally throughout the City or not benefiting lands in the City equally, and includes any liability incurred by a former municipality with respect to such service;

“urban service area” means the area or rateable property, including the business assessment thereon, designated in a by-law under clause (2) (c) or in an order under clause (5) (c).

By-laws  
respecting  
urban  
services

(2) The council of the City may, with the approval of the Municipal Board, by by-law,

(a) identify an urban service;



- (b) define which costs of the City are related to that urban service;
- (c) designate upon what area or rateable property, including the business assessment thereon, of the City the related costs should be raised; and
- (d) levy a special rate on that area or rateable property, including the business assessment thereon, to raise the whole or part of the related costs.

(3) The rates to be levied within each urban service area shall be determined in accordance with subsection 7 (3) of the *Ontario Unconditional Grants Act*.

Determi-  
nation of  
rates  
R.S.O. 1980,  
c. 359

(4) The council of the City may establish, amend or dissolve any number of urban service areas designated under subsection (2).

Dissolution  
of urban  
service areas

(5) Before the 1st day of January, 1991, the Minister, upon the joint application of the councils of the City of Sarnia and the Town of Clearwater, may make an order to be effective no earlier than the 1st day of January, 1991, that,

Minister's  
order

- (a) identifies an urban service;
- (b) defines which costs of the City will relate to that urban service; and
- (c) designates upon what area or rateable property, including business assessment thereon, of the City the related costs shall be raised.

(6) Where an order under subsection (5) creating an urban service area is in force and has not been amended under subsection (7), the council of the City may pass a by-law under clause (2) (d) related to that urban service area without the approval of the Municipal Board.

Where  
O.M.B.  
approval not  
required

(7) The council of the City may, with the approval of the Municipal Board, by by-law amend or repeal an order under subsection (5).

Amendments  
or repeal of  
order by City

## PART XIII

### MISCELLANEOUS

**80.**—(1) The Minister shall appoint three persons as a board of arbitrators to make adjustments of assets and liabilities arising from any amalgamation, dissolution, other than

Board of  
arbitrators



the dissolution of a police village, and transfer of functions or services under Parts I, II, V, VIII, IX, X, XI and this Part.

Certain provisions of R.S.O. 1980, c. 25 apply

(2) Sections 3 to 5, 7, 9 to 11 and 13 to 15 of the *Arbitrations Act* and the Schedule to that Act apply to an arbitration under this section.

Decisions of board binding

(3) The decisions of the board of arbitrators are binding on the County, local municipalities and local boards and are not subject to appeal.

Hearing

(4) The board of arbitrators shall hold a hearing with respect to any matter set out in subsection (1) that is in dispute.

County responsible for industrial sites  
R.S.O. 1980, c. 302

**81.**—(1) Paragraph 50 of section 210 of the *Municipal Act* applies with necessary modifications to the County and no local municipality shall exercise the powers set out in that paragraph except in respect of lands acquired or held by a local municipality on or before the 31st day of December, 1990.

Restrictions respecting publicity, regional economic development agreements  
R.S.O. 1980, c. 302

(2) Subject to subsection (3), no local municipality shall exercise any powers under paragraphs 22 and 58 of section 208 of the *Municipal Act* after the 31st day of December, 1990.

Expenditures for publicity

(3) The County and a local municipality may pool their funds and act jointly for the purposes of paragraph 22 of section 208 of the *Municipal Act*.

By-laws respecting emergency measures

**82.**—(1) When County Council has passed a by-law under subclauses 209 (b) (ii) and (iii) of the *Municipal Act*, any by-law passed by the council of a local municipality under those subclauses is of no effect.

Idem

(2) When a by-law passed by County Council under subclause 209 (b) (ii) of the *Municipal Act* is in force, the County may pass by-laws,

(a) with the consent of the local municipality or local board concerned, for appointing heads of departments and alternates to be members of or advisors to the emergency measures planning committee or any subcommittee thereof;

(b) with the consent of the local municipality or local board concerned, for training employees of the

local municipality or local board in their emergency functions;

- (c) for appointing members of the emergency measures planning committee or of any subcommittee thereof to be in charge of the departments or utilities throughout the County, as provided in the by-law, when an emergency occurs;
- (d) for acquiring alternative headquarters for the County Government outside the County; and
- (e) for obtaining and distributing emergency materials, equipment and supplies.

(3) The County shall be deemed to be a regional municipality and the local municipalities shall be deemed to be area municipalities of that regional municipality for the purposes of the *Emergency Plans Act, 1983*.

Deeming provision respecting 1983, c. 30

**83.** The County Council, before the 31st day of December, 1992, shall prepare, adopt and forward to the Minister for approval an amendment to the official plan of the County to cover the area of the former municipality of The Corporation of the City of Sarnia.

Amendment to official plan

**84.—(1)** The County Council shall not request an amendment to this Act unless,

Double majority vote

- (a) a majority of all the votes on County Council are cast in favour of the request; and
- (b) members of County Council representing a majority of the local municipalities cast their votes in favour of the request.

(2) For the purposes of clause (1) (b), subsection 41 (4) applies with necessary modifications.

Idem

**85.—(1)** The Lieutenant Governor in Council may, upon the recommendation of the Minister, make regulations providing for the security of employment, the protection of benefits, including seniority and pensions, and early retirement options for employees affected by this Act.

Regulations respecting employees

(2) Subsection (1) does not apply to employees affected by a by-law passed or repealed under Part VII.

Limitation

**86.** Sections 4 and 18 of this Act are repealed on the 1st day of December, 1991.

Repeal of ss. 4 and 18

## Repeals

**87.** *The City of Sarnia Act, 1925*, being chapter 103, *The City of Sarnia Act, 1977*, being chapter 101 and the *County of Lambton Act, 1981*, being chapter 92, are repealed on the 1st day of January, 1991.

Commence-  
ment

**88.**—(1) This Act, except sections 5, 6, 7, 13, 19, 20 and 21, Parts IX and X and section 87, comes into force on the day it receives Royal Assent.

## Idem

(2) Sections 5 and 13, Parts IX and X and section 87 come into force on the 1st day of January, 1991.

## Idem

(3) Sections 6, 7, 19, 20 and 21 come into force on the 1st day of December, 1991.

Transition,  
regular  
elections  
R.S.O. 1980,  
c. 308

(4) Despite subsection (3), the regular elections to be held in 1991 under the *Municipal Elections Act* in the area municipalities shall be conducted as if sections 6, 7 and 19 were in force.

## Short title

**89.** The short title of this Act is the *Sarnia-Lambton Act, 1989*.

## SCHEDULE

## WARD 1

Beginning at the intersection of the southerly boundary of the Town of Clearwater and the centre line of the Blackwell Sideroad;

Thence northerly along the centre line of the Blackwell Sideroad and the northerly prolongation thereof to a point distant 500 metres measured northerly from the southerly high water mark of Lake Huron;

Thence easterly and parallel with the southerly high water mark of the said Lake to the easterly boundary of the Town of Clearwater;

Thence southerly along the easterly boundary of the said Town to the south easterly angle of the said Town;

Thence westerly along the southerly boundary of the said Town to the place of beginning.

## WARD 2

Beginning at the intersection of the centre line of the King's Highway No. 402 and the centre line of the Blackwell Sideroad;

Thence northerly along the centre line of Blackwell Sideroad and the northerly prolongation thereof to a point distant 500 metres measured northerly from the southerly high water mark of Lake Huron;

Thence westerly and parallel with the southerly high water mark of the said Lake to the International Boundary between the Province of Ontario and the United States of America;



Thence southerly along the said International Boundary to the northerly boundary of the Village of Point Edward;

Thence easterly and southerly along the northerly and easterly boundaries of the said Village to the centre line of Michigan Avenue;

Thence easterly along the centre line of Michigan Avenue to the centre line of Indian Road North;

Thence southerly along the centre line of Indian Road North to the centre line of the King's Highway No. 402;

Thence easterly along the centre line of the said King's Highway to the place of beginning.

#### WARD 3

Beginning at the intersection of the westerly boundary of the City of Sarnia and the centre line of Michigan Avenue;

Thence easterly along the centre line of Michigan Avenue to the centre line of Indian Road North;

Thence southerly along the centre line of Indian Road North to the centre line of the King's Highway No. 402;

Thence easterly along the centre line of the said King's Highway to the centre line of the Blackwell Sideroad;

Thence southerly along the centre line of the Blackwell Sideroad to the northerly limit of Concession V of the former Township of Sarnia;

Thence westerly along the northerly limit of the said Concession to the easterly limit of the King's Highway No. 40;

Thence westerly to and along the centre line of Wellington Street to the centre line of Indian Road South;

Thence northerly along the centre line of Indian Road South to the centre line of London Road;

Thence westerly along the centre line of London Road and the westerly prolongation thereof to the International Boundary between the Province of Ontario and the United States of America;

Thence northerly along the said International Boundary to the southerly boundary of the Village of Point Edward;

Thence easterly and northerly following the boundaries between the Village of Point Edward and the City of Sarnia to the place of beginning.

#### WARD 4

Beginning at the intersection of the southerly boundary of the Town of Clearwater and the centre line of the Blackwell Sideroad;

Thence northerly along the centre line of the Blackwell Sideroad to the northerly limit of Concession V of the former Township of Sarnia;

Thence westerly along the northerly limit of the said Concession to the easterly limit of the King's Highway No. 40;



Thence westerly to and along the centre line of Wellington Street to the centre line of Indian Road South;

Thence northerly along the centre line of Indian Road South to the centre line of London Road;

Thence westerly along the centre line of London Road and the westerly prolongation thereof to the International Boundary between the Province of Ontario and the United States of America;

Thence southerly along the said International Boundary to the southerly boundary of the City of Sarnia;

Thence easterly along the southerly boundary of the City of Sarnia and the Town of Clearwater to the place of beginning.





# Bill 35

**An Act respecting the  
amalgamation of the City of Sarnia and the  
Town of Clearwater and the addition of the  
amalgamated City to the County of Lambton**

The Hon. J. Eakins  
*Minister of Municipal Affairs*

*1st Reading*      June 20th, 1989  
*2nd Reading*     July 12th, 1989  
*3rd Reading*  
*Royal Assent*

*(Reprinted as amended by the Committee of the Whole House)*



### EXPLANATORY NOTES

The purpose of the Bill is to amalgamate the City of Sarnia with the Town of Clearwater on the 1st day of January, 1991 and to make the amalgamated City part of the County for municipal purposes.

The council of the amalgamated City shall consist of eight members, elected on a ward basis, four of whom shall also sit on County Council. The council of the County shall consist of the mayor of each local municipality and the four members elected by ward from the City. The distribution of votes on County Council is set out in subsection 18 (2).

Under Part VII certain powers that are usually conferred on local municipalities may, if prescribed by the Minister, be assumed by the County. The County is also responsible for waste management, county roads and certain other roads described in section 54, health and social services and public libraries.

A board of arbitrators is appointed under section 80 to deal with disputes in respect of any adjustments of assets and liabilities that result from the amalgamation and transfer of responsibilities.

Bill 35

1989

**An Act respecting the  
amalgamation of the City of Sarnia and the  
Town of Clearwater and the addition of the  
amalgamated City to the County of Lambton**

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HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

## Definitions

**1. In this Act,**

"City" means The Corporation of the City of Sarnia-Clearwater as created by the amalgamation of the former municipalities under section 2;

"City of Sarnia" means the former municipality of The Corporation of the City of Sarnia;

“County” means The Corporation of the County of Lambton;

“County Council” means the council of the County;

“former municipalities” means The Corporation of the City of Sarnia and The Corporation of the Town of Clearwater as they existed before the 1st day of January, 1991;

“local municipality” means a city, town, village and township forming part of the County for municipal purposes but does not include a former municipality;

“Minister” means the Minister of Municipal Affairs;

“Municipal Board” means the Ontario Municipal Board;

“municipality” means a municipality, as defined in the *Municipal Affairs Act*, and a metropolitan, regional or district municipality and the County of Oxford or a local board of a metropolitan, regional or district municipality or of the County of Oxford;

R.S.O. 1980,  
c. 303

“pre-election period” means the period from the 1st day of January, 1991 until the 30th day of November, 1991, inclusive;

“prescribed” means prescribed by regulations made under this Act;

“Town of Clearwater” means the former municipality of The Corporation of the Town of Clearwater.

## PART I

### LOCAL MUNICIPALITIES

2.—(1) On the 1st day of January, 1991, The Corporation of the City of Sarnia and The Corporation of the Town of Clearwater are amalgamated under the name of “The Corporation of the City of Sarnia-Clearwater”.

Amalgamation

(2) Despite section 5 of the *Territorial Division Act*, the City forms part of the County for municipal purposes.

City forms  
part of  
County

R.S.O. 1980,  
c. 497

(3) The City shall not apply for the annexation or amalgamation of any land before the 1st day of January, 2016, unless the County Council and the council of every local municipality the lands of which are part of the proposed annexation or

Future  
amalgamation,  
annexation  
by agreement



amalgamation agree, by resolution, to the proposed application being made.

Name of City  
to be put to  
a vote

**3.**—(1) The City shall submit the question “Do you want the new City to be named Sarnia” to the electors of the City at the 1991 regular election.

Change of  
name

(2) If the majority of votes cast in response to the question are in the affirmative, the name of the City shall become The Corporation of the City of Sarnia effective the 1st day of January, 1992.

Idem

(3) After the 1st day of January, 1992, the Minister may by order alter the name of the City.

Composition  
of interim  
City council  
R.S.O. 1980,  
c. 302

**4.**—(1) Despite subsection 30 (1) of the *Municipal Act*, during the pre-election period, the council of the City shall be composed of,

- (a) a mayor, who shall be the person who was the mayor of the City of Sarnia on the 31st day of December, 1990;
- (b) a deputy mayor, who shall be the person who was the mayor of the Town of Clearwater on the 31st day of December, 1990;
- (c) a reeve, who shall be the person who was the reeve of the Town of Clearwater on the 31st day of December, 1990;
- (d) a deputy reeve, who shall be the person who was the deputy reeve of the Town of Clearwater on the 31st day of December, 1990; and
- (e) twelve other members,
  - (i) eight of whom shall be the persons who were the members of the council, except the mayor, of the City of Sarnia on the 31st day of December, 1990, and
  - (ii) four of whom shall be the persons who were the members of the council, except the mayor, reeve and deputy reeve, of the Town of Clearwater on the 31st day of December, 1990.

First meeting

(2) The first meeting of the council shall be held not later than the 8th day of January, 1991.

(3) Each member of council has one vote.

One vote

(4) Despite section 72 of the *Municipal Act*, if the mayor of the City is absent from the municipality or is unable or unwilling to act or the office of mayor is vacant, the deputy mayor shall act in the place of the mayor and, while so acting, has all the rights and powers of the mayor.

Acting mayor  
R.S.O. 1980,  
c. 302

5.—(1) The City shall consist of four wards as described in the Schedule.

Wards

(2) All wards in the former municipalities are dissolved.

Dissolution  
of former  
wards

6.—(1) Despite sections 30, 31, 32, 34 and 36 of the *Municipal Act*, but subject to section 7, the council of each local municipality shall be composed of a mayor, who shall be elected by a general vote of the electors of the local municipality and who shall be the head of the council, and the following other members:

Composition  
of councils

1. The City—eight members consisting of,
  - i. four members who shall be elected by wards, one from each ward, as members of the council of the City and of the County Council, and
  - ii. four members who shall be elected by wards, one from each ward, as members of the council of the City.
2. A town—six members who shall be elected by a general vote of the electors of the town.
3. A township—four members who shall be elected by a general vote of the electors of the township.
4. A village—four members who shall be elected by a general vote of the electors of the village.

(2) Each member of the council of a local municipality has one vote.

One vote

(3) Despite section 37 of the *Municipal Act*, a person is qualified to be elected or hold office under paragraph 1 of subsection (1) if, in addition to being qualified under section 37 of the *Municipal Act*, that person at any time during the period commencing on the Tuesday following the first Monday in September in an election year and ending on the Monday in October that precedes polling day by twenty-eight

Qualifi-  
cations to  
hold office

days is a resident in or is the owner or tenant of land in or is the spouse of such an owner or tenant in the ward in which that person is seeking to be elected or to hold office. ▲

O.M.B.  
order  
R.S.O. 1980,  
c. 302

7.—(1) Upon the application of a local municipality under subsection 13 (2) of the *Municipal Act*, or upon the petition of electors under subsection 13 (3) of that Act, the Municipal Board may, by order,

- (a) divide or redivide the local municipality into wards and designate the name or number each ward shall bear and declare the date when the division or redivision takes effect;
- (b) alter or dissolve any or all of the wards in the local municipality and declare the date when the alteration or dissolution takes effect; and
- (c) vary the composition of the council of the local municipality.

Limitation on  
order

(2) No order made under subsection (1),

- (a) shall take effect before the 1st day of December, 1994; or
- (b) shall alter the total number of members who represent the local municipality on the County Council or the number of votes assigned to the members under this Act.

Idem

(3) Despite subsection (1), the mayor of the local municipality shall continue to be elected by a general vote of the electors of the local municipality and shall be the head of council of the local municipality and a member of the County Council.

Where  
inquiry by  
Minister

(4) Where the Minister is inquiring into the structure, organization and methods of operation of a local municipality or the County, the Minister may give notice to the Municipal Board of the inquiry and request that any application or petition made under subsection (1) be deferred until the inquiry has been completed.

Idem

(5) If notice is given under subsection (4), all proceedings in the application or petition are stayed until the Minister gives notice to the Municipal Board that they may be continued.

No board of  
control

(6) A local municipality shall not have a board of control.



**8.—(1)** Every by-law and resolution of a former municipality shall be deemed to be a by-law or resolution of the City and shall remain in force in the area of the former municipality until the earlier of,

By-laws,  
resolutions of  
former  
municipalities

(a) the date it is amended or repealed by the council of the City; or

(b) the 31st day of December, 1992.

(2) Despite subsection (1), any by-law of a former municipality passed under section 34 of the *Planning Act, 1983*, or a predecessor of that section, and any official plan of a former municipality approved under the *Planning Act, 1983*, or a predecessor of that Act, shall remain in force until amended or repealed.

By-laws,  
official plans  
under  
1983, c. 1

(3) If a former municipality has commenced procedures to enact a by-law that requires the approval of a minister of the Crown, the Municipal Board or a provincial agency and the approval has not been obtained before the 31st day of December, 1990, the council of the City may continue the procedures to enact the by-law and subsection (1) applies with necessary modifications to the by-law.

By-laws that  
require  
approval

(4) Nothing in this section repeals or authorizes the amendment or repeal of,

By-laws,  
resolutions  
not affected

(a) by-laws or resolutions of the former municipalities passed under section 45, 58 or 61 of the *Drainage Act* or a predecessor of those sections; and

R.S.O. 1980,  
c. 126

(b) by-laws or resolutions conferring rights, privileges, franchises, immunities or exemptions that could not have been lawfully repealed by the councils of the former municipalities.

**9.** Except as otherwise provided in this Act, the assets and liabilities of the former municipalities and their local boards become assets and liabilities of the City or a local board thereof without compensation, and the City and its local boards stand in the place of the former municipalities and their local boards.

Assets and  
liabilities  
transferred to  
City

**10.** All taxes, charges or rates levied by a former municipality under any general or special Act that are due and unpaid on the 31st day of December, 1990 shall, after that date, be taxes, charges or rates due and payable to the City and may be collected and recovered by the City as if the taxes, charges or rates had been imposed by the City.

Taxes,  
charges, rates  
transferred to  
City



Dissolution  
of  
committees  
of adjustment

**11.—**(1) Subject to subsection (4), on the 1st day of January, 1991, the committees of adjustment of the former municipalities are dissolved.

City to  
establish  
committee of  
adjustment

(2) The City shall establish a committee of adjustment under section 43 of the *Planning Act*, 1983.

Applications  
continued

(3) All applications to the committees of adjustment of the former municipalities shall be deemed to be applications to and shall be continued by the committee of adjustment of the City.

Continuing  
matters

(4) The committees of adjustment dissolved under subsection (1) and the terms of office of the members of the committees shall continue to the 31st day of January, 1991 for the purpose of making a decision on any application for which a hearing is completed before the 1st day of January, 1991.

Dissolution  
of  
committees,  
boards under  
1982, c. 7,  
R.S.O. 1980,  
cc. 80, 417

**12.—**(1) The council of the City shall be deemed to be a recreation committee under the *Ministry of Tourism and Recreation Act*, 1982, a committee of management of a community recreation centre under the *Community Recreation Centres Act* and a board of park management under the *Public Parks Act* and all such committees and boards of the former municipalities are dissolved on the 1st day of January, 1991.

Idem

(2) All by-laws and resolutions of the boards and committees dissolved under subsection (1) are continued as by-laws and resolutions of the City, and shall remain in force until the earlier of,

(a) the date they are amended or repealed by the City;  
or

(b) the 31st day of December, 1992.

Certain  
by-laws,  
resolutions  
continue

(3) Nothing in this section repeals or authorizes the amendment or repeal of by-laws or resolutions conferring rights, privileges, franchises, immunities or exemptions that could not have been lawfully repealed by the boards and committees dissolved under subsection (1).

Repeal of  
certain  
by-laws,  
resolutions,  
appointments

**13.—**(1) Despite section 8,

(a) the by-laws and resolutions of the City of Sarnia establishing and appointing members to the Canada Day Committee, Committee of Parks and Recreation, Committee of Management of Marshall Gowland Manor, Planning Advisory Committee,

Sarnia Heritage Committee and the Sarnia Museum Board, all of the City of Sarnia, are repealed;

- (b) the by-laws and resolutions of the Town of Clearwater establishing and appointing members to the Planning Advisory Committee of the Town of Clearwater are repealed; and
- (c) the terms of office of the appointees of the City of Sarnia to the Property Standards Committee of the City of Sarnia are terminated.

(2) Nothing in this section prevents the City from or relieves the City of any responsibility for establishing or making appointments to boards and committees. Appointments

**14.**—(1) Despite section 8, the City, on or before the 31st day of January, 1991, shall, Fire departments

- (a) repeal the by-laws of the City of Sarnia and the Town of Clearwater establishing their respective fire departments; and

- (b) establish a fire department for the City.

(2) Every person who is a member of the fire department of the City of Sarnia or the Town of Clearwater on the 1st day of July, 1990 and continues to be a member until the 31st day of December, 1990 becomes a member of the fire department established under clause (1) (b). Fire fighters

(3) In subsection (2), “member” means a full-time fire fighter and a volunteer fire fighter as defined in the *Fire Departments Act*. Definition  
R.S.O. 1980,  
c. 164

**15.** Except as otherwise provided in this Act, the City or a local board thereof shall offer to employ every person who was employed by a former municipality or a local board thereof on the 1st day of July, 1990 and who continued to be so employed until the 31st day of December, 1990. Offer of employment

**16.**—(1) The Police Village of Inwood and the Police Village of Florence are dissolved on the 1st day of January, 1991. Dissolution of police villages

(2) The Municipal Board, upon the application of a local municipality or a local board thereof or of its own motion, may exercise the powers under section 25 of the *Municipal Act* consequent upon the dissolutions. Further powers  
R.S.O. 1980,  
c. 302

No further  
appeal  
R.S.O. 1980,  
c. 347

(3) Sections 94 and 95 of the *Ontario Municipal Board Act* do not apply to decisions or orders made in the exercise of the powers under subsection (2).

## PART II

### COUNTY COUNCIL

Application  
R.S.O. 1980,  
c. 302

**17.** This Part applies despite sections 27, 28 and 29 of the *Municipal Act*.

Interim  
County  
Council

**18.—(1)** During the pre-election period, the County Council shall have thirty-seven members consisting of,

- (a) the mayor, reeve and deputy reeve of the City;
- (b) the reeve of the Village of Alvinston, the Village of Arkona, the Village of Oil Springs and the Village of Thedford; and
- (c) the reeve and deputy reeve of the Town of Forest, the Town of Petrolia, the Village of Grand Bend, the Village of Point Edward, the Village of Watford, the Village of Wyoming, the Township of Bosanquet, the Township of Brooke, the Township of Dawn, the Township of Enniskillen, the Township of Euphemia, the Township of Moore, the Township of Plympton, the Township of Sombra and the Township of Warwick.

Distribution  
of votes

(2) The members of the County Council under subsection (1) shall have a total of seventy-three votes of which,

- (a) the mayor of the City shall have ten votes;
- (b) the reeve and deputy reeve of the City shall each have nine votes;
- (c) the reeve of the Township of Bosanquet and the Township of Moore shall each have three votes;
- (d) the reeve of the Town of Petrolia, the Township of Enniskillen, the Township of Plympton and the Township of Sombra shall each have two votes;
- (e) the deputy reeve of the Township of Bosanquet, the Township of Moore and the Township of Plympton shall each have two votes; and
- (f) all other members shall have one vote.



(3) The first meeting of the County Council shall be held after the council of the City has held its first meeting under subsection 4 (2) but, in any event, not later than the 15th day of January, 1991. First meeting

(4) Despite subsection 51 (1) of the *Municipal Act*, the County Council established under subsection (1) shall, at the first meeting at which a majority of the members is present, elect one of its members to be warden and, for such election, each member of County Council shall have one vote. Warden  
R.S.O. 1980,  
c. 302

(5) The term of the warden of the County holding office on the 30th day of November, 1990 is extended until a new warden is elected under subsection (4). Term of  
office

**19.—**(1) The County Council shall be composed of,

Composition  
of County  
Council

(a) the mayor of each local municipality; and

(b) the four county ward members of the council of the City.

(2) The members of the County Council under subsection (1) shall have a total of thirty-seven votes of which, Distribution  
of votes

(a) the mayor and each county ward member of the council of the City shall have three votes;

(b) the mayor of the Township of Bosanquet, the Township of Moore and the Township of Plympton shall each have two votes; and

(c) all other members shall have one vote.

(3) The County Council shall review the distribution of votes under subsection (2) on or before the 1st day of January, 2001. Review

▼  
(4) Despite subsection 18 (2) and subsection (2) of this section, upon the recommendation of the Minister, the Lieutenant Governor in Council may by order provide for the manner in which the County Council votes of the mayors of municipalities being amalgamated should be distributed to the local municipalities, other than the City, that would exist after such amalgamation. Distribution  
of votes of  
mayors

**20.—**(1) Despite subsections 19 (2), for the purposes of electing the warden of County Council, each member shall have one vote. Election of  
warden



County  
warden

(2) The warden of the County Council shall bear the title of county warden. 

Vacancies

**21.** The seat of a mayor of a local municipality and the seat of a county ward member of the council of the City becomes vacant if his or her seat on the County Council is declared vacant by the County Council.

Offer of  
employment

**22.** The County or a local board thereof shall offer to employ every person who, on the 1st day of July, 1990, was employed in any undertaking carried on by or on behalf of any former or local municipality or local board thereof that is assumed by the County or a local board thereof under this Act and who continues to be so employed until the 31st day of December, 1990.

By-laws,  
resolutions  
continued

**23.—(1)** Every by-law and resolution of a former or local municipality in respect of any undertaking carried on by or on behalf of a former or local municipality that is assumed by the County under this Act shall be deemed to be a by-law or resolution of the County and shall remain in force in the area of the former or local municipality until the earlier of,

(a) the date it is amended or repealed by the council of the County; or

(b) the 31st day of December, 1992.

By-laws that  
require  
approval

(2) If a former or local municipality has commenced procedures to enact a by-law that requires the approval of a minister of the Crown, the Municipal Board or a provincial agency and the approval has not been obtained before the 31st day of December, 1990, the council of the County may continue the procedures to enact the by-law and subsection (1) applies with necessary modifications to the by-law.

By-laws,  
resolutions  
not affected

(3) Nothing in this section repeals or authorizes the amendment or repeal of by-laws or resolutions conferring rights, privileges, franchises, immunities or exemptions that could not have been lawfully repealed by the councils of the former municipalities.

Assets and  
liabilities  
transferred to  
County

**24.** All assets and liabilities of a former or local municipality or a local board thereof in respect of any undertaking carried on by or on behalf of any former or local municipality or local board thereof that is assumed by the County or a local board thereof under this Act become assets and liabilities of the County or a local board thereof without compensation, and the County and its local boards stand in the place of the former or local municipalities and their local boards.

## PART III

## FORMER MUNICIPALITIES

**25.—**(1) The City of Sarnia and the Town of Clearwater Agreement shall enter into an agreement with respect to,

- (a) fee structures;
- (b) capital improvements;
- (c) the adequacy of public buildings;
- (d) maintenance of current levels of services;
- (e) shared capital expenditures;
- (f) impost fees;
- (g) capital improvements;
- (h) cash in lieu of parkland;
- (i) organizational structures;
- (j) the financing of capital expenditures;
- (k) capital budgets;
- (l) equipment reserve accounts;
- (m) contributions to reserve accounts;
- (n) shoreline protection;
- (o) public transit;
- (p) rural water supply;
- (q) water meters; and
- (r) major recreation complexes.

(2) The councils of the County, the City of Sarnia and the Town of Clearwater shall establish a joint implementation committee to make recommendations with respect to the agreement and any other matter set out in this Act.

Joint  
committee

(3) The joint committee shall submit its recommendations to the Minister on or before the 1st day of May, 1990.

Recommen-  
dations to be  
submitted to  
Minister

Order  
effecting  
recommen-  
dations

(4) Subject to any other Act, the Lieutenant Governor in Council may, upon the recommendation of the Minister, by order give effect to any recommendation of the joint committee.

## PART IV

### SARNIA HYDRO

Hydro  
commission

**26.**—(1) A hydro-electric power commission for the City is hereby established on the 1st day of January, 1991 and shall be deemed to be a commission established under Part III of the *Public Utilities Act* and a municipal commission within the meaning of the *Power Corporation Act*.

R.S.O. 1980,  
cc. 423, 384

Composition  
of  
commission

(2) Despite section 41 of the *Public Utilities Act*, the hydro-electric power commission shall,

(a) during the pre-election period, be composed of,

(i) the members of the commission dissolved under subsection (5), and

(ii) the deputy mayor and reeve of the City; and

(b) after the pre-election period, be composed of,

(i) the mayor of the City, and

(ii) four other members who are qualified electors in the City under the *Municipal Elections Act* who shall be elected by a general vote of the electors of the City.

R.S.O. 1980,  
c. 308

Term of  
office

(3) A member of the commission shall hold office for the same term as the members of council or until the successor of the member is elected or appointed.

Delegate of  
mayor

(4) The council of the City may by by-law, passed with the written consent of the mayor, appoint a delegate from among the members of the council to represent the mayor on the commission.

Dissolution

(5) The Hydro-Electric Commission of the City of Sarnia is dissolved on the 1st day of January, 1991.

Transfer of  
assets,  
liabilities

(6) On the 1st day of January, 1991, the assets of the Town of Clearwater, the assets under the control and management of the commission dissolved under subsection (5) and the liabilities of the Town of Clearwater and of such commission



that relate to the distribution and supply of electrical power become assets under the control and management of and liabilities of the commission established under subsection (1), without compensation.

(7) On the 1st day of January, 1991, the commission established under subsection (1) shall acquire the retail distribution facilities within the Town of Clearwater used by Ontario Hydro on the 31st day of December, 1990 in the retail distribution of power, including equipment leased by Ontario Hydro to retail customers within the Town of Clearwater for the use of such power, and the price of the facilities shall be equal to the original cost of the facilities less the sum of the accumulated net retail equity of the customers supplied with power through the facilities and the accumulated depreciation associated with the facilities.

Purchase of  
retail  
distribution  
facilities from  
Ontario  
Hydro

(8) In subsection (7),

Definitions

“accumulated net retail equity” means the portion of the equity accumulated through debt retirement appropriations recorded for the rural power district relating to Ontario Hydro’s rural retail system plus the portion of the balance recorded for rural retail customers in the Stabilization of Rates and Contingencies Account, in the books of Ontario Hydro;

“retail distribution facilities” means works for the transmission and supply of power at voltages less than 50 kilovolts other than works located within a transformer station that transforms power from voltages greater than 50 kilovolts to voltages less than 50 kilovolts.

(9) All by-laws and resolutions of the Town of Clearwater and of the commission dissolved under subsection (5) that relate to the distribution and supply of electrical power are continued as by-laws and resolutions of the commission established under subsection (1), and shall remain in force until the earlier of,

Continuation  
of by-laws,  
resolutions

(a) the date they are amended or repealed by the commission; or

(b) the 31st day of December, 1992.

(10) Nothing in this section repeals or authorizes the amendment or repeal of by-laws or resolutions conferring rights, privileges, franchises, immunities or exemptions that could not have been lawfully repealed by the Town of

Certain  
by-laws,  
resolutions  
remain  
effective



Clearwater or by the commission dissolved under subsection (5).

## PART V

### POLICE

Boards of  
Commissioners of  
Police

**27.**—(1) On the 1st day of January, 1990, The Board of Commissioners of Police of the City of Sarnia and The Board of Commissioners of Police of the Town of Clearwater are amalgamated and the new board shall be deemed to be a board established under section 8 of the *Police Act*.

R.S.O. 1980,  
c. 381

Interim  
board

(2) Despite section 8 of the *Police Act*, from the 1st day of January, 1990 to the 30th day of November, 1991, inclusive, the board shall be composed of the members of the boards amalgamated under this section.

Composition  
of board

(3) On and after the 1st day of December, 1991, the board shall be composed of those members provided for under section 8 of the *Police Act*.

Temporary  
name

(4) During 1990, the board shall be called "The Board of Commissioners of Police of the City of Sarnia and the Town of Clearwater".

Police service

(5) During 1990, the board is responsible for providing police service for the City of Sarnia and the Town of Clearwater and, for the purpose of exercising its powers under any general or special Act, the City of Sarnia and the Town of Clearwater shall be deemed to be amalgamated as a city municipality.

Idem

(6) On and after the 1st day of January, 1991, the board is responsible for providing police service for the City.

Local board

**28.**—(1) During 1990, the board shall be deemed to be a local board of the City of Sarnia and not of the Town of Clearwater.

Rights  
protected

(2) Despite subsection (1), a resident or elector of the Town of Clearwater has the same rights and privileges as a resident or elector of the City of Sarnia relating to police matters.

Transfer to  
City

(3) On the 1st day of January, 1991, the board shall continue as the board of commissioners of police of the City and a local board of the City.

**29.**—(1) The board shall, in preparing its 1990 estimates under subsection 14 (2) of the *Police Act*, show separately the amount required to provide police service in the Town of Clearwater and in the City of Sarnia.

Estimates  
R.S.O. 1980,  
c. 381

(2) The amount of the estimates for providing police service in the Town of Clearwater shall be deemed to be a debt of the Town of Clearwater falling due in 1990 for the purposes of section 164 of the *Municipal Act*, and the Town of Clearwater shall pay this amount to the City of Sarnia no later than the 30th day of June, 1990.

Idem  
R.S.O. 1980,  
c. 302

(3) If there is a disagreement between the City of Sarnia and the Town of Clearwater on how the estimates are broken down under subsection (1), the City of Sarnia or the Town of Clearwater may refer the matter to the Ontario Police Commission and the decision of the Ontario Police Commission is final.

Disagree-  
ments

**30.** On the 1st day of January, 1990, the assets under the control and management of the boards amalgamated under subsection 27 (1) and all liabilities of such boards become assets under the control and management of and liabilities of the board, without compensation.

Transfer of  
assets,  
liabilities

**31.**—(1) On the 1st day of January, 1990, all by-laws and resolutions of the boards amalgamated under subsection 27 (1) are continued as by-laws and resolutions of the board and shall remain in force in the former municipality for which they were passed until the earlier of,

Continuation  
of by-laws,  
resolutions

(a) the date they are amended or repealed by the board; or

(b) the 31st day of December, 1990.

(2) Nothing in this section repeals or authorizes the amendment or repeal of by-laws or resolutions conferring rights, privileges, franchises, immunities or exemptions that could not have been lawfully repealed by the boards amalgamated under subsection 27 (1).

Certain  
by-laws,  
resolutions  
remain  
effective

**32.** On and after the 1st day of January, 1991, the board and the members of the police force of the City shall have the same duties with respect to by-laws of the County as they do with respect to by-laws of the City.

Responsi-  
bility for  
County  
enforcement

**33.** Every person who is a member of the police force of the Town of Clearwater or of the police force of the City of Sarnia on the 1st day of July, 1989, and who continues to be a

Transfer of  
police  
personnel

member until the 31st day of December, 1989, becomes on the 1st day of January, 1990 a member of the police force created by the amalgamation under subsection 27 (1).

## PART VI

### BOUNDARY ADJUSTMENTS

Application  
of  
1981, c. 70

**34.**—(1) This Part applies to applications made to the Minister under section 2 of the *Municipal Boundary Negotiations Act, 1981*, that are being processed on the day this Part comes into force, and to future applications made under that section before the 1st day of January, 1991, to resolve an intermunicipal boundary issue or an intermunicipal boundary-related issue in the County.

Idem

(2) Subsection (1) does not apply to an issue involving a boundary of the County unless, in the opinion of the Minister, that issue is of a minor nature.

1981, c. 70  
does not  
apply

(3) Except as otherwise provided in this Part, the *Municipal Boundary Negotiations Act, 1981* does not apply to an application to which this Part applies.

Exception

(4) Sections 15 to 21 of the *Municipal Boundary Negotiations Act, 1981* apply with necessary modifications to an application to which this Part applies and to an order made under section 40.

Boundary  
application  
committee

**35.**—(1) The warden of County Council shall, within thirty days of this Part coming into force, appoint a boundary application committee.

Composition  
of committee

(2) The committee shall have five members consisting of,

- (a) the warden;
- (b) two members of County Council representing towns or villages; and
- (c) two members of County Council representing townships.

Presiding  
officer

(3) The members of the committee shall appoint a presiding officer.

Guidelines

**36.** The committee shall establish guidelines for considering boundary applications in consultation with the Ministry of Municipal Affairs.

**37.—**(1) For each application to which this Part applies, the committee shall, having regard for the guidelines established under section 36, Duties of committee

- (a) determine and inquire into the issues raised by the application;
- (b) determine the party municipalities which have a substantial interest in the issues raised; and
- (c) obtain the opinion of the party municipalities and of any local board that the committee considers is affected by the application, on the issues raised by the application.

(2) Subject to subsections (4) and (5), the committee shall prepare and submit to County Council a report setting out, Idem

- (a) the issues;
- (b) the party municipalities in respect of each issue;
- (c) the extent of agreement or disagreement on the issues;
- (d) any agreement the party municipalities have reached on any of the issues;
- (e) the recommendations of the committee on how the issues raised by the application should be resolved; and
- (f) any other matters the committee considers appropriate.

(3) The committee may make recommendations under clause (2) (e) with respect to, Recommendations

- (a) the matters set out in paragraphs 1 to 24 of section 14 of the *Municipal Boundary Negotiations Act, 1981*; 1981, c. 70
- (b) the name of a local municipality; and
- (c) in the event the committee recommends an amalgamation, how the County Council votes of the mayors of the municipalities being amalgamated should be distributed to the local municipalities, other than the City, that would exist after such amalgamation.



Public  
meeting

(4) The committee shall, before preparing its report, hold at least one public meeting for the purpose of obtaining information, comments or opinions regarding the application.

Idem

(5) The committee shall, after preparing its report and before submitting it to County Council, hold at least one public meeting for the purpose of obtaining submissions and comments from the public in respect of the contents of the report.

Amendments  
to report

(6) The committee may amend its report after the public meeting required under subsection (5) and before submitting it to County Council.

Notice of  
meeting

(7) Notice of a public meeting required under subsection (4) or (5) shall be given at least fifteen days in advance of each meeting by publishing it in a newspaper having general circulation in the party municipalities.

County  
proposal

**38.—**(1) The County Council shall consider the report of the committee and shall, within sixty days after receiving the report and having regard to the guidelines established by the committee under section 36, submit to the Minister a proposal with respect to the resolution of the issues raised by the application.

Recommen-  
dations

(2) The proposal may contain recommendations with respect to the matters set out in subsection 37 (3).

Action by  
Minister

**39.** The Minister shall, within sixty days of receipt of the proposal,

- (a) submit to the Lieutenant Governor in Council a recommendation with respect to one or more of the matters set out in subsection 37 (3);
- (b) refer any issue back to County Council or the committee for further consideration;
- (c) terminate further consideration of the application;
- (d) refer any issue to the Municipal Board to hear any party municipality and, after a hearing, to make recommendations thereon; or
- (e) take such other action as the Minister considers appropriate.

Order

**40.** Upon receipt of the recommendation of the Minister, the Lieutenant Governor in Council may by order provide for one or more of the matters set out in subsection 37 (3).

## PART VII

## ASSUMPTION OF LOCAL POWERS BY THE COUNTY

**41.**—(1) In this Part, “local power” means a power that is conferred by any general or special Act on local municipalities or local boards thereof and that is prescribed by the Minister. Local power

(2) The County Council may pass by-laws to assume any local power for all of the local municipalities. Assumption  
of local  
power

(3) No by-law under subsection (2) shall be passed or repealed unless, Double  
majority vote

(a) a majority of all the votes on County Council are cast in its favour; and

(b) members of County Council representing a majority of the local municipalities cast their votes in its favour.

(4) For the purpose of clause (3) (b), the members of County Council representing the City shall only be considered to have cast their votes in favour of a by-law if at least three of the City representatives cast their votes in its favour. Idem

(5) When a by-law passed under subsection (2) comes into effect, Effect of  
by-law

(a) the County is responsible for the local powers assumed by the County in all of the local municipalities;

(b) the County has the powers conferred by any general or special Act upon the local municipalities or local boards thereof related to the local powers assumed by the County;

(c) no local municipality shall exercise the local powers assumed by the County and any by-law or other measure of a local municipality under that power is of no effect; and

(d) no local municipality shall provide any service or facility under the local power assumed by the County within the County without the consent of County Council, which consent may be given upon such conditions, including the payment of compensation, as may be agreed upon.

Appeal to  
O.M.B.

(6) If consent is refused under clause (5) (d) or the council of the local municipality and the County Council fail to agree on the conditions related to the consent, the applicant may appeal to the Municipal Board which shall hear and determine the matter.

Decision of  
Board final

(7) The Municipal Board may impose such conditions as it considers appropriate and the decision of the Municipal Board is final.

No further  
appeal  
R.S.O. 1980,  
c. 347

(8) Section 94 of the *Ontario Municipal Board Act* does not apply to a decision made under subsection (7).

Transfer of  
rights, obliga-  
tions, etc.

**42.**—(1) All rights, obligations, assets and liabilities of a local municipality or local board thereof pertaining to the local powers assumed by the County are vested in the County and financial adjustments, calculated in accordance with such criteria as may be prescribed, shall be made between the County and the local municipalities or local boards thereof.

Assumption  
by County of  
debt

(2) The County shall pay to the local municipality or local board thereof on or before the due date all amounts of principal and interest becoming due upon any outstanding debt of that local municipality or local board in respect of the local powers assumed by the County.

Interest

(3) If the County fails to make any payment required under subsection (2) on or before the due date, the local municipality or local board may charge the County interest at the rate of 15 per cent per annum, or such lower rate as the local municipality or local board determines, from the due date until payment is made.

Agreements

**43.**—(1) If a local municipality or local board thereof had entered into an agreement with any municipality or other person in respect of the local power assumed by the County, the County shall be bound by and entitled to the benefit of the agreement and the local municipality or local board thereof is relieved of all liability under the agreement.

Idem

(2) The County Council may enter into agreements with any municipality or other person for establishing, constructing, operating or managing any service or facility that is within the jurisdiction of the County Council as a result of the passage of the by-law under subsection 41 (2).

Rates  
R.S.O. 1980,  
c. 302

**44.**—(1) Despite sections 368 and 368e of the *Municipal Act*, the County Council may by by-law provide for imposing on and collecting from the local municipalities for which it is providing services or facilities under the assumed local powers



a rate sufficient to pay the whole, or such portion as the by-law may specify, of the expenditures and capital costs including debenture charges related to the services or facilities and such rate may vary on any basis the County Council considers appropriate and specifies in the by-law.

(2) All rates under subsection (1) constitute a debt of the local municipality to the County and are payable at such times and in such amounts as may be specified by by-law of the County Council. Idem

(3) Despite sections 368 and 368e of the *Municipal Act*, a local municipality may, Collection of  
rates  
R.S.O. 1980,  
c. 302

- (a) pay the whole or part of the amount chargeable to it under this section out of its general funds;
- (b) pass by-laws for collecting the whole or part of the amount chargeable to it under this section in the same manner as that local municipality could have collected the amount if the local power had not been assumed by the County; and
- (c) include the whole or any part of an amount chargeable to it under this section as part of the cost of an urban service within an urban service area established in the local municipality under any general or special Act.

**45.—**(1) When a by-law under subsection 41 (2) is repealed, Repeal of  
by-law

- (a) the local powers assumed by the County revert to the local municipalities and local boards thereof as they exist on the day the by-law is repealed;
- (b) all rights, obligations, assets and liabilities of the County or local board thereof pertaining to the local powers are vested in the local municipalities or local boards thereof;
- (c) financial adjustments, calculated in accordance with such criteria as may be prescribed, shall be made between the County or local board thereof and the local municipalities or local boards thereof; and
- (d) the local municipalities or local boards thereof shall pay to the County or local board thereof on or before the due date all amounts of principal and interest becoming due upon any outstanding debt of



the County or local board thereof in respect of the local powers reverting to the local municipalities or local boards thereof.

Interest

(2) If the local municipalities or local boards thereof fail to make any payment required under clause (1) (d) on or before the due date, the County or local board thereof may charge the local municipalities or local boards thereof interest at the rate of 15 per cent per annum, or such lower rate as the County or local board thereof determines, from the due date until payment is made.

Agreements

(3) If the County or local board thereof had entered into an agreement with any municipality or other person in respect of the local power reverting to the local municipalities or local boards thereof, the local municipalities or local boards thereof are bound by the agreement and the County or local board thereof is relieved of all liability under the agreement.

Disputes

**46.**—(1) If a dispute arises in respect of the financial adjustments or the vesting of assets and liabilities under subsection 42 (1) or clause 45 (1) (b), or the transfer of agreements under subsection 43 (1) or subsection 45 (3), the County, local municipality or local board affected may apply to the Municipal Board for a resolution of the dispute and the Municipal Board shall hear and determine the matter and its decision is final.

R.S.O. 1980,  
c. 347, s. 94  
does not  
apply

(2) Section 94 of the *Ontario Municipal Board Act* does not apply to a decision made under subsection (1).

Regulations

**47.**—(1) The Lieutenant Governor in Council may make regulations,

- (a) providing for the security of employment, the protection of benefits, including seniority and pensions, and early retirement options for employees affected by by-laws passed or repealed under this section;
- (b) prescribing the criteria for determining the amount of and the manner of payment of the financial adjustments under subsections 42 (2) and 45 (1) and for providing which body shall pay and which body shall receive the payments made under those subsections.

Minister's  
order

(2) The Minister may by order prescribe the local powers to which this Part applies.

## PART VIII

## WASTE DISPOSAL

**48.** In this Part, "waste" means garbage, refuse, domestic waste, industrial solid waste or municipal refuse and such other waste as may be designated by by-law of the County Council.

Definition

**49.—**(1) On and after the 1st day of January, 1991, the County shall provide facilities for receiving, dumping and disposing of waste and no local municipality or local board thereof shall provide such facilities.

County waste facilities

(2) For the purposes of subsection (1), the County Council has the powers conferred by any general or special Act upon the local municipalities and local boards thereof for the receiving, dumping and disposing of waste.

County powers

(3) The County Council may, for each local municipality, designate one or more facilities for the receiving, dumping and disposing of waste or any class thereof.

Designated facilities

(4) If a designation has been made, a local municipality shall not utilize any facilities except the facilities that have been designated for that local municipality.

Idem

**50.—**(1) No facilities for the receiving, dumping and disposing of waste shall be provided in the County by any municipality or other person without the consent of the County Council, which consent may be given upon such terms, including the payment of compensation, as may be agreed upon.

Waste disposal, County responsibility

(2) Subsection (1) does not apply to prevent any person or any municipality which does not form part of the County for municipal purposes from providing facilities for the receiving, dumping and disposing of waste if such facilities were being lawfully provided on the 1st day of January, 1991, so long as that facility continues to operate without interruption.

Existing facilities

(3) If the County Council refuses its consent under subsection (1) or the applicant and the County Council fail to agree on the terms related to the consent, the applicant may appeal to the Municipal Board which shall hear and determine the matter and may impose such conditions as the Board considers appropriate.

Disagreements to O.M.B.

(4) The decision of the Municipal Board is final.

Decision final

R.S.O. 1980,  
c. 347, s. 94  
does not  
apply

(5) Section 94 of the *Ontario Municipal Board Act* does not apply to a decision made under subsection (3).

Agreements

**51.** The County Council may enter into agreements with any municipality or other person for establishing, constructing, operating or managing, facilities for the receiving, dumping and disposing of waste.

Adoption of  
certain  
provisions

**52.** Section 42, subsection 43 (1), section 44 and clause 47 (1) (b) apply with necessary modifications to the powers granted to the County under this Part to provide facilities for receiving, dumping and disposing of waste.

Disputes

**53.** If a dispute arises in respect of the financial adjustments or the vesting of assets and liabilities, or the transfer of agreements under this Part, the board of arbitrators established under section 80 has the power to hear and determine the matter.

## PART IX

### COUNTY ROAD SYSTEM

County roads

**54.** On and after the 1st day of January, 1991, all roads under the jurisdiction and control of the County shall continue to form part of the county road system together with,

- (a) the roads that on the 31st day of December, 1990 are under the jurisdiction and control of the Sarnia Suburban Roads Commission;
- (b) the roads within the City prescribed by the Minister; and
- (c) the roads that on the 31st day of December, 1990 are covered by an agreement under section 58 of the *Public Transportation and Highway Improvement Act*.

R.S.O. 1980,  
c. 421

Dissolution  
of roads  
commission

**55.—(1)** The Sarnia Suburban Roads Commission is dissolved on the 1st day of January, 1991 and the assets and liabilities of the commission are transferred to the County on that date.

Transfer of  
benefits,  
liabilities

(2) The County has, in respect of the roads included in the county road system, all the rights, powers and benefits conferred and is subject to all liabilities imposed by statute, by-law, contract or otherwise upon the Sarnia Suburban Roads Commission.



**56.**—(1) Despite subsections 270 (1), (2) and (4) of the *Municipal Act*, the County Council may by by-law assume as a county road any highway within a local municipality.

Assumption  
of highways  
by County  
R.S.O. 1980,  
c. 302

(2) A by-law passed under subsection (1) does not take effect until assented to by the council of the local municipality.

Consent  
required

(3) The County Council may by by-law assume as a county road any highway in a local municipality that connects with a county road.

Connecting  
roads

**57.**—(1) Sections 58 and 59 of the *Public Transportation and Highway Improvement Act* do not apply to the County or the local municipalities.

R.S.O. 1980,  
c. 421, ss.  
58, 59 do  
not apply

(2) All existing agreements between the County and a local municipality under section 58 of the *Public Transportation and Highway Improvement Act* are terminated on the 1st day of January, 1991.

Existing  
agreements  
R.S.O. 1980,  
c. 421

**58.**—(1) Despite subsections 278 (1) and (2) of the *Municipal Act*, a bridge that, on the 31st day of December, 1990, is under the exclusive or joint jurisdiction and control of County Council is on the 1st day of January, 1991 transferred to and vested in the council of the local municipality that has jurisdiction over the highway on which the bridge is situate.

Bridges  
R.S.O. 1980,  
c. 302

(2) Subsection (1) does not apply to bridges,

Limitation

(a) on county roads;

(b) on a boundary line between local municipalities; or

(c) on a county boundary line.

**59.** The Minister may by order prescribe the roads within the City which are county roads.

Minister's  
order

## PART X

### HEALTH AND SOCIAL SERVICES

**60.**—(1) On and after the 1st day of January, 1991, the Lambton Health Unit shall be composed of,

Lambton  
Health Unit

(a) not more than six members appointed from and by the County Council; and



- (b) not more than two persons appointed by the Lieutenant Governor in Council upon the recommendation of the Minister of Health.

County  
responsible  
for expenses  
1983, c. 10

(2) Despite any other Act, the expenses incurred by the Lambton Health Unit in establishing and maintaining the health unit and performing its functions under the *Health Protection and Promotion Act, 1983* or any other Act shall be paid by the County.

County  
responsible  
under  
R.S.O. 1980,  
c. 188

**61.** For the purposes of the *General Welfare Assistance Act*, no local municipality shall be deemed to be a municipality and the County shall have sole responsibility as a County for all matters provided for in that Act.

Homes for  
the aged

**62.**—(1) The homes for the aged known as Twilight Haven, North Lambton and Marshall Gowland, and all assets and liabilities thereof, vest solely in the County on and after the 1st day of January, 1991.

No local  
municipality  
has authority  
under  
R.S.O. 1980,  
c. 203  
Costs

(2) No local municipality has authority to establish, erect or maintain a home for the aged under the *Homes for the Aged and Rest Homes Act*.

R.S.O. 1980,  
c. 302

(3) The costs of operating and maintaining Twilight Haven, North Lambton and Marshall Gowland shall form part of the levy under section 164 of the *Municipal Act*.

1984, c. 55  
does not  
apply to local  
municipality

**63.** No local municipality shall be deemed to be a municipality for the purposes of the *Child and Family Services Act, 1984*.

Information  
to be  
provided to  
County

**64.** Every local municipality and every officer or employee thereof shall, at the request of the officers of the County who are responsible for the administration of the Acts referred to in this Part, furnish to the County officers any information they may require for the purposes of this Act.

## PART XI

### PUBLIC LIBRARIES

County  
library board

**65.**—(1) A county library board for the entire County to be known as "The Lambton County Library Board" is hereby established on the 1st day of January, 1991 and shall be deemed to be a county library board established under Part I of the *Public Libraries Act, 1984*.

1984, c. 57

➡  
(2) Subsection 9 (6) of the *Public Libraries Act, 1984* does not apply in the County.

1984, c. 57,  
s. 9 (6)  
does not  
apply

(3) All local municipalities shall be deemed to be participating municipalities for the purposes of subsection 26 (1) of the *Public Libraries Act, 1984*. ➡

Apportion-  
ment of  
county levy

(4) All library boards of the County, local municipalities and former municipalities are dissolved on the 1st day of January, 1991 and their assets and liabilities are transferred to the county library board established under subsection (1), without compensation.

Transfer of  
assets,  
liabilities to  
county  
library board

(5) All by-laws, rules, regulations and fees passed or established by the boards dissolved under subsection (4) are continued as by-laws, rules, regulations and fees of the county library board and shall remain in force until the earlier of,

Continuation  
of by-laws,  
etc.

(a) the date they are amended or repealed by the board; or

(b) the 31st day of December, 1992.

(6) Nothing in this section repeals or authorizes the amendment or repeal of by-laws conferring rights, privileges, franchises, immunities or exemptions that could not have been lawfully repealed by a board dissolved under subsection (4).

Certain  
by-laws  
continued

**66.** The County shall pay to each local municipality, on or before the due date, all amounts of principal and interest becoming due upon any outstanding debt of each local municipality in respect of public libraries and, if the County fails to pay the amounts before the due date, the local municipality may charge the County interest at the annual rate of 15 per cent, or such lower rate as the local municipality determines, from the due date until payment is made.

Debt  
transferred to  
County

**67.** Every person who was an employee of a board dissolved under this Part on the 1st day of July, 1990, and continues to be employed until the 31st day of December, 1990, becomes, on the 1st day of January, 1991, an employee of the county library board.

Transfer of  
employees

## PART XII

### FINANCES

**68.** In this Part,

Definitions

R.S.O. 1980,  
c. 31

“average municipal commercial mill rate” means, in respect of a local municipality, the rate obtained by dividing the total of taxes levied for all purposes, other than for school purposes and other than under sections 32 and 33 of the *Assessment Act*, on the commercial assessment for the preceding year by the total commercial assessment for the preceding year and multiplying the result by 1,000;

R.S.O. 1980,  
c. 359

“commercial assessment” means commercial assessment as defined in clause 1 (1) (b) of the *Ontario Unconditional Grants Act*;

“discounted assessment” means, for a local municipality or for a merged area, the sum of,

- (a) the product obtained by multiplying the residential and farm assessment for that local municipality or that merged area by 0.5131, and
- (b) the commercial assessment for that local municipality or that merged area;

“discounted equalized assessment” means, for each local municipality, the sum of the discounted assessment and the equivalent assessment of that local municipality divided by its prescribed equalization factor and multiplied by 100;

“discounted equalized assessment for each merged area” means the discounted assessment of the merged area divided by its prescribed equalization factor and multiplied by 100;

R.S.O. 1980,  
c. 302

“equivalent assessment” means, for a local municipality, that portion of its payments in lieu of taxes in the preceding year, as defined in clause 365 (1) (j) of the *Municipal Act*, not allocated for school purposes, divided by the average municipal commercial mill rate and multiplying the result by 1,000;

“merged area” means the area of the City of Sarnia or the area of the Town of Clearwater;

“net county levy” means the amount required for County purposes under subsection 365 (6) of the *Municipal Act* including the sums required for any board, commission or other body, apportioned to each local municipality by the County;

“net lower tier levy” means the amount required for the purposes of a local municipality under section 164 of the



*Municipal Act* including the sums required for any board, commission or other body, but excluding amounts required to be raised for County and school purposes or for a special rate imposed under section 79;

R.S.O. 1980,  
c. 302

“residential and farm assessment” means residential and farm assessment as defined in clause 7 (1) (e) of the *Ontario Unconditional Grants Act*.

R.S.O. 1980,  
c. 359

**69.**—(1) For purposes of apportioning the net county levy or the net lower tier levy among the respective merged areas, the Minister may, in each year, prescribe the equalization factor to apply for that year to each local municipality within the County and each merged area.

Prescribed  
equalization  
factor

(2) Despite subsection 365 (6) of the *Municipal Act*, the treasurer of the County shall determine,

Annual  
County  
apportionment

- (a) the discounted equalized assessment of each local municipality in the County;
- (b) the discounted equalized assessment of the County; and
- (c) the percentage share of apportionment, correct to three decimal places, for each local municipality by dividing the discounted equalized assessment for each local municipality by the discounted equalized assessment of the County and multiplying the result by 100.

**70.**—(1) In each year, the Ministry of Municipal Affairs shall calculate and notify the City of the discounted equalized assessment for each merged area.

Annual  
merged area  
apportionment

(2) Despite subsection 7 (2) of the *Ontario Unconditional Grants Act*, the net county levy and the net lower tier levy of the City shall be levied against the whole rateable property, including business assessment thereon, of the City and apportioned between the merged areas of the City in the proportion that the discounted equalized assessment for each merged area bears to the total discounted equalized assessment of both merged areas.

How levies  
apportioned  
R.S.O. 1980,  
c. 359

(3) The rates to be levied in each merged area of the City shall be determined in accordance with subsection 7 (3) of the *Ontario Unconditional Grants Act*.

Determi-  
nation of  
rates

**71.**—(1) Despite section 70, the council of the City may by by-law in any year, before the adoption of the estimates for

Interim levy



that year, levy in each of the merged areas, on the whole of the assessment for real property, including business assessment in the merged area, according to the last returned assessment roll, a sum not exceeding 50 per cent of that which would be produced by applying to such assessment the total rate for all purposes levied in the merged area in the preceding year on residential real property of public school supporters.

Adjustments

(2) The amount of any levy under subsection (1) shall be deducted from the amount of the levy made under subsection 70 (2).

Application  
of  
R.S.O. 1980,  
c. 302,  
s. 159 (5)

(3) Subsection 159 (5) of the *Municipal Act* applies to levies made under subsection (1).

Merged areas  
under  
R.S.O. 1980,  
c. 129

**72.**—(1) For the purposes of levying taxes under Part IV of the *Education Act*, the merged areas shall be deemed to be municipalities, and the council of the City shall be deemed to be the council of each merged area.

Regulations

(2) The Lieutenant Governor in Council may each year make regulations providing for the apportionment of the sums required by the Lambton County Board of Education and The Lambton County Roman Catholic Separate School Board with respect to any local municipality or merged area or parts thereof that are wholly or partly within their area of jurisdiction.

Where  
county-wide  
assessment  
R.S.O. 1980,  
c. 302

**73.** Sections 69, 70, 71 and 72 of this Part and sections 365, 366 and 368 of the *Municipal Act* cease to apply to the County and the local municipalities if the County has been subject to an assessment update under section 368b of the *Municipal Act*.

Direction of  
Minister of  
Revenue

**74.**—(1) Despite subsections 368b (3) and (3a) of the *Municipal Act*, in 1991, for the purposes of taxation in 1992, the Minister of Revenue shall make a direction under subsection 368b (2) of the *Municipal Act* for changes to be made to the assessment rolls of the local municipalities.

Grants

(2) If the Minister is of the opinion that taxes for school purposes in a local municipality may be unduly increased because of changes made to the assessment rolls of local municipalities as a result of a direction under subsection (1), the Minister may make a grant to the local municipality under such terms as the Minister considers necessary in the circumstances.

(3) If, in any year, a local municipality receives a grant under subsection (2), the local municipality shall, in that year, use the grant to reduce the increases in the amounts the local municipality is required to levy for school purposes.

Grant to be  
used to  
reduce  
increases

(4) Nothing in this Part prevents or restricts a local municipality from passing by-laws under section 362 or 363 of the *Municipal Act*.

Certain  
by-laws not  
affected  
R.S.O. 1980,  
c. 302

**75.—**(1) In 1991, the council of the City shall, in the manner prescribed by the Minister, levy on the whole of the assessment for real property and business assessment according to the last returned assessment roll pertaining to the merged area of the Town of Clearwater rates of taxation for general purposes which shall not be increased over the 1990 rates by more than the lesser of,

1991 City  
rates

- (a) 3.5 per cent of the rates of taxation for general purposes in the Town of Clearwater in 1990; and
- (b) the rate of inflation for the calendar year of 1990, as determined by the Consumer Price Index published by Statistics Canada.

(2) In 1992, the council of the City shall, in the manner prescribed by the Minister, levy on the whole of the assessment for real property and business assessment according to the last returned assessment roll pertaining to the merged area of the Town of Clearwater rates of taxation for general purposes which shall limit the aggregate levy for general purposes upon the merged area to the lesser of,

1992 City  
rates

- (a) 103.5 per cent of the dollar amount levied for general purposes in the merged area of the Town of Clearwater in 1991; and
- (b) 100 per cent plus the rate of inflation for the calendar year of 1991, as determined by the Consumer Price Index published by Statistics Canada, of the dollar amount levied for general purposes in the merged area of the Town of Clearwater in 1991.

(3) In 1993, the council of the City shall, in the manner prescribed by the Minister, levy on the whole of the assessment for real property and business assessment according to the last returned assessment roll pertaining to the merged area of the Town of Clearwater rates of taxation for general purposes which shall not be increased over the 1992 rates by more than the lesser of,

1993 City  
rates

- (a) 3.5 per cent of the rates of taxation for general purposes in the merged area of the Town of Clearwater in 1992; and
- (b) the rate of inflation for the calendar year of 1992, as determined by the Consumer Price Index published by Statistics Canada.

Rates,  
subsequent  
years

(4) In 1994, 1995, 1996, 1997, 1998, 1999 and 2000, the council of the City shall, in the manner prescribed by the Minister, levy on the whole of the assessment for real property and business assessment according to the last returned assessment roll pertaining to the merged area of the Town of Clearwater rates of taxation for general purposes which are different from the rates which would have been levied for such purposes but for this subsection.

Where taxes  
reduced

(5) If the Minister has made an order under this section which results in a reduction in the taxes which would have otherwise been levied in any year, the amount of the reduction shall be charged to the general funds of the City in that year.

Adjustments  
of grant total

R.S.O. 1980,  
c. 359

**76.**—(1) The Minister may by order on such conditions as the Minister considers appropriate provide for payments to be made to the City so that in each of the years 1991, 1992 and 1993 the total of all grants received by the City under the *Ontario Unconditional Grants Act* pertaining to the merged area of the Town of Clearwater and payments under this subsection is not less than the total of all grants received by the Town of Clearwater under the *Ontario Unconditional Grants Act* in 1990.

Minister's  
order

(2) The Minister may by order before the 1st day of January, 2000, on such conditions as the Minister considers appropriate, make grants or loans to the County and the local municipalities to achieve the purposes of this Act.

Appropri-  
ations

**77.** The money required for the purposes of this Act shall be paid out of the money appropriated therefor by the Legislature.

Adjustments  
of grants  
under  
R.S.O. 1980,  
c. 359

**78.**—(1) A grant under the *Ontario Unconditional Grants Act* to the County or a local municipality in any year in which an incorporation, a major boundary change or a major change in responsibility for the delivery of any service took place during that year shall be revised to reflect the incorporation, the boundary change or the change in the delivery of services.



(2) If, in any year, there is an overpayment or underpayment of grants paid to the County or a local municipality as a result of a revision under subsection (1), the Minister shall adjust any grant paid to the County or a local municipality in the immediately following year by the amount of the overpayment or underpayment.

Adjustment  
of grants by  
Minister

**79.—(1)** In this section,

Definitions

“urban service” means a service of the City not being provided generally throughout the City or not benefiting lands in the City equally, and includes any liability incurred by a former municipality with respect to such service;

“urban service area” means the area or rateable property, including the business assessment thereon, designated in a by-law under clause (2) (c) or in an order under clause (5) (c).

(2) The council of the City may, with the approval of the Municipal Board, by by-law,

By-laws  
respecting  
urban  
services

- (a) identify an urban service;
- (b) define which costs of the City are related to that urban service;
- (c) designate upon what area or rateable property, including the business assessment thereon, of the City the related costs should be raised; and
- (d) levy a special rate on that area or rateable property, including the business assessment thereon, to raise the whole or part of the related costs.

(3) The rates to be levied within each urban service area shall be determined in accordance with subsection 7 (3) of the *Ontario Unconditional Grants Act*.

Determi-  
nation of  
rates  
R.S.O. 1980,  
c. 359

(4) The council of the City may establish, amend or dissolve any number of urban service areas designated under subsection (2).

Dissolution  
of urban  
service areas

(5) Before the 1st day of January, 1991, the Minister, upon the joint application of the councils of the City of Sarnia and the Town of Clearwater, may make an order to be effective no earlier than the 1st day of January, 1991, that,

Minister's  
order

- (a) identifies an urban service;



(b) defines which costs of the City will relate to that urban service; and

(c) designates upon what area or rateable property, including business assessment thereon, of the City the related costs shall be raised.

Where  
O.M.B.  
approval not  
required

(6) Where an order under subsection (5) creating an urban service area is in force and has not been amended under subsection (7), the council of the City may pass a by-law under clause (2) (d) related to that urban service area without the approval of the Municipal Board.

Amendments  
or repeal of  
order by City

(7) The council of the City may, with the approval of the Municipal Board, by by-law amend or repeal an order under subsection (5).

## PART XIII

### MISCELLANEOUS

Board of  
arbitrators

**80.**—(1) The Minister shall appoint three persons as a board of arbitrators to make adjustments of assets and liabilities arising from any amalgamation, dissolution, other than the dissolution of a police village, and transfer of functions or services under Parts I, II, V, VIII, IX, X, XI and this Part.

Certain  
provisions of  
R.S.O. 1980,  
c. 25 apply

(2) Sections 3 to 5, 7, 9 to 11 and 13 to 15 of the *Arbitrations Act* and the Schedule to that Act apply to an arbitration under this section.

Decisions of  
board  
binding

(3) The decisions of the board of arbitrators are binding on the County, local municipalities and local boards and are not subject to appeal.

Hearing

(4) The board of arbitrators shall hold a hearing with respect to any matter set out in subsection (1) that is in dispute.

Industrial  
sites  
R.S.O. 1980,  
c. 302

**81.** Paragraph 50 of section 210 of the *Municipal Act* applies with necessary modifications to the County.

By-laws  
respecting  
emergency  
measures

**82.**—(1) If there is a conflict between a by-law passed by County Council under subclause 209 (b) (ii) or (iii) of the *Municipal Act* and a by-law passed by the council of a local municipality under those subclauses, the by-law of County Council prevails to the extent of the conflict.

(2) When a by-law passed by County Council under sub-clause 209 (b) (ii) of the *Municipal Act* is in force, the County may pass by-laws,

Idem  
R.S.O. 1980,  
c. 302

- (a) with the consent of the local municipality or local board concerned, for appointing heads of departments and alternates to be members of or advisors to the emergency measures planning committee or any subcommittee thereof;
- (b) with the consent of the local municipality or local board concerned, for training employees of the local municipality or local board in their emergency functions;
- (c) for appointing members of the emergency measures planning committee or of any subcommittee thereof to be in charge of the departments or utilities throughout the County, as provided in the by-law, when an emergency occurs;
- (d) for acquiring alternative headquarters for the County Government outside the County; and
- (e) for obtaining and distributing emergency materials, equipment and supplies.

(3) The County shall be deemed to be a regional municipality and the local municipalities shall be deemed to be area municipalities of that regional municipality for the purposes of the *Emergency Plans Act*, 1983.

Deeming  
provision  
respecting  
1983, c. 30

**83.** The County Council, before the 31st day of December, 1992, shall prepare, adopt and forward to the Minister for approval an amendment to the official plan of the County to cover the area of the former municipality of The Corporation of the City of Sarnia.

Amendment  
to official  
plan

**84.—(1)** The County Council shall not request an amendment to this Act unless,

Double  
majority vote

- (a) a majority of all the votes on County Council are cast in favour of the request; and
- (b) members of County Council representing a majority of the local municipalities cast their votes in favour of the request.

(2) For the purposes of clause (1) (b), subsection 41 (4) applies with necessary modifications.

Idem

Regulations  
respecting  
employees

**85.**—(1) The Lieutenant Governor in Council may, upon the recommendation of the Minister, make regulations providing for the security of employment, the protection of benefits, including seniority and pensions, and early retirement options for employees affected by this Act.

Limitation

(2) Subsection (1) does not apply to employees affected by a by-law passed or repealed under Part VII.

Repeal of  
ss. 4 and 18

**86.** Sections 4 and 18 of this Act are repealed on the 1st day of December, 1991.

Repeals

**87.** *The City of Sarnia Act, 1925*, being chapter 103, *The City of Sarnia Act, 1977*, being chapter 101 and the *County of Lambton Act, 1981*, being chapter 92, are repealed on the 1st day of January, 1991.

Commence-  
ment

**88.**—(1) This Act, except sections 5, 6, 7, 13, 19, 20 and 21, Parts IX and X and section 87, comes into force on the day it receives Royal Assent.

Idem

(2) Sections 5 and 13, Parts IX and X and section 87 come into force on the 1st day of January, 1991.

Idem

(3) Sections 6, 7, 19, 20 and 21 come into force on the 1st day of December, 1991.

Transition,  
regular  
elections  
R.S.O. 1980,  
c. 308

(4) Despite subsection (3), the regular elections to be held in 1991 under the *Municipal Elections Act* in the area municipalities shall be conducted as if sections 6, 7 and 19 were in force.

Short title

**89.** The short title of this Act is the *Sarnia-Lambton Act, 1989*.

## SCHEDULE

### WARD 1

Beginning at the intersection of the southerly boundary of the Town of Clearwater and the centre line of the Blackwell Sideroad;

Thence northerly along the centre line of the Blackwell Sideroad and the northerly prolongation thereof to a point distant 500 metres measured northerly from the southerly high water mark of Lake Huron;

Thence easterly and parallel with the southerly high water mark of the said Lake to the easterly boundary of the Town of Clearwater;

Thence southerly along the easterly boundary of the said Town to the south easterly angle of the said Town;



Thence westerly along the southerly boundary of the said Town to the place of beginning.

#### WARD 2

Beginning at the intersection of the centre line of the King's Highway No. 402 and the centre line of the Blackwell Sideroad;

Thence northerly along the centre line of Blackwell Sideroad and the northerly prolongation thereof to a point distant 500 metres measured northerly from the southerly high water mark of Lake Huron;

Thence westerly and parallel with the southerly high water mark of the said Lake to the International Boundary between the Province of Ontario and the United States of America;

Thence southerly along the said International Boundary to the northerly boundary of the Village of Point Edward;

Thence easterly and southerly along the northerly and easterly boundaries of the said Village to the centre line of Michigan Avenue;

Thence easterly along the centre line of Michigan Avenue to the centre line of Indian Road North;

Thence southerly along the centre line of Indian Road North to the centre line of the King's Highway No. 402;

Thence easterly along the centre line of the said King's Highway to the place of beginning.

#### WARD 3

Beginning at the intersection of the westerly boundary of the City of Sarnia and the centre line of Michigan Avenue;

Thence easterly along the centre line of Michigan Avenue to the centre line of Indian Road North;

Thence southerly along the centre line of Indian Road North to the centre line of the King's Highway No. 402;

Thence easterly along the centre line of the said King's Highway to the centre line of the Blackwell Sideroad;

Thence southerly along the centre line of the Blackwell Sideroad to the northerly limit of Concession V of the former Township of Sarnia;

Thence westerly along the northerly limit of the said Concession to the easterly limit of the King's Highway No. 40;

Thence westerly to and along the centre line of Wellington Street to the centre line of Indian Road South;

Thence northerly along the centre line of Indian Road South to the centre line of London Road;

Thence westerly along the centre line of London Road and the westerly prolongation thereof to the International Boundary between the Province of Ontario and the United States of America;



Thence northerly along the said International Boundary to the southerly boundary of the Village of Point Edward;

Thence easterly and northerly following the boundaries between the Village of Point Edward and the City of Sarnia to the place of beginning.

#### WARD 4

Beginning at the intersection of the southerly boundary of the Town of Clearwater and the centre line of the Blackwell Sideroad;

Thence northerly along the centre line of the Blackwell Sideroad to the northerly limit of Concession V of the former Township of Sarnia;

Thence westerly along the northerly limit of the said Concession to the easterly limit of the King's Highway No. 40;

Thence westerly to and along the centre line of Wellington Street to the centre line of Indian Road South;

Thence northerly along the centre line of Indian Road South to the centre line of London Road;

Thence westerly along the centre line of London Road and the westerly prolongation thereof to the International Boundary between the Province of Ontario and the United States of America;

Thence southerly along the said International Boundary to the southerly boundary of the City of Sarnia;

Thence easterly along the southerly boundary of the City of Sarnia and the Town of Clearwater to the place of beginning.





# Bill 35

*(Chapter 41  
Statutes of Ontario, 1989)*

**An Act respecting the  
amalgamation of the City of Sarnia and the  
Town of Clearwater and the addition of the  
amalgamated City to the County of Lambton**

**The Hon. J. Eakins**  
*Minister of Municipal Affairs*

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<i>1st Reading</i>	June 20th, 1989
<i>2nd Reading</i>	July 12th, 1989
<i>3rd Reading</i>	July 13th, 1989
<i>Royal Assent</i>	July 13th, 1989

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**An Act respecting the  
amalgamation of the City of Sarnia and the  
Town of Clearwater and the addition of the  
amalgamated City to the County of Lambton**

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HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

## Definitions

**1. In this Act,**

"City" means The Corporation of the City of Sarnia-Clearwater as created by the amalgamation of the former municipalities under section 2;

"City of Sarnia" means the former municipality of The Corporation of the City of Sarnia;

"County" means The Corporation of the County of Lambton;

"County Council" means the council of the County;

"former municipalities" means The Corporation of the City of Sarnia and The Corporation of the Town of Clearwater as they existed before the 1st day of January, 1991;

"local municipality" means a city, town, village and township forming part of the County for municipal purposes but does not include a former municipality;

"Minister" means the Minister of Municipal Affairs;

"Municipal Board" means the Ontario Municipal Board;

"municipality" means a municipality, as defined in the *Municipal Affairs Act*, and a metropolitan, regional or district municipality and the County of Oxford or a local board of a metropolitan, regional or district municipality or of the County of Oxford; R.S.O. 1980,  
c. 303

"pre-election period" means the period from the 1st day of January, 1991 until the 30th day of November, 1991, inclusive;

"prescribed" means prescribed by regulations made under this Act;

"Town of Clearwater" means the former municipality of The Corporation of the Town of Clearwater.

## PART I

### LOCAL MUNICIPALITIES

**2.—(1)** On the 1st day of January, 1991, The Corporation of the City of Sarnia and The Corporation of the Town of Clearwater are amalgamated under the name of "The Corporation of the City of Sarnia-Clearwater". Amalgamation

**(2)** Despite section 5 of the *Territorial Division Act*, the City forms part of the County for municipal purposes. City forms  
part of  
County  
R.S.O. 1980,  
c. 497

**(3)** The City shall not apply for the annexation or amalgamation of any land before the 1st day of January, 2016, unless the County Council and the council of every local municipality the lands of which are part of the proposed annexation or Future  
amalgamation,  
annexation  
by agreement



amalgamation agree, by resolution, to the proposed application being made.

Name of City  
to be put to  
a vote

**3.—**(1) The City shall submit the question “Do you want the new City to be named Sarnia” to the electors of the City at the 1991 regular election.

Change of  
name

(2) If the majority of votes cast in response to the question are in the affirmative, the name of the City shall become The Corporation of the City of Sarnia effective the 1st day of January, 1992.

Idem

(3) After the 1st day of January, 1992, the Minister may by order alter the name of the City.

Composition  
of interim  
City council  
R.S.O. 1980,  
c. 302

**4.—**(1) Despite subsection 30 (1) of the *Municipal Act*, during the pre-election period, the council of the City shall be composed of,

- (a) a mayor, who shall be the person who was the mayor of the City of Sarnia on the 31st day of December, 1990;
- (b) a deputy mayor, who shall be the person who was the mayor of the Town of Clearwater on the 31st day of December, 1990;
- (c) a reeve, who shall be the person who was the reeve of the Town of Clearwater on the 31st day of December, 1990;
- (d) a deputy reeve, who shall be the person who was the deputy reeve of the Town of Clearwater on the 31st day of December, 1990; and
- (e) twelve other members,
  - (i) eight of whom shall be the persons who were the members of the council, except the mayor, of the City of Sarnia on the 31st day of December, 1990, and
  - (ii) four of whom shall be the persons who were the members of the council, except the mayor, reeve and deputy reeve, of the Town of Clearwater on the 31st day of December, 1990.

First meeting

(2) The first meeting of the council shall be held not later than the 8th day of January, 1991.

(3) Each member of council has one vote.

One vote

(4) Despite section 72 of the *Municipal Act*, if the mayor of the City is absent from the municipality or is unable or unwilling to act or the office of mayor is vacant, the deputy mayor shall act in the place of the mayor and, while so acting, has all the rights and powers of the mayor.

Acting mayor  
R.S.O. 1980,  
c. 302

5.—(1) The City shall consist of four wards as described in the Schedule.

Wards

(2) All wards in the former municipalities are dissolved.

Dissolution  
of former  
wards

6.—(1) Despite sections 30, 31, 32, 34 and 36 of the *Municipal Act*, but subject to section 7, the council of each local municipality shall be composed of a mayor, who shall be elected by a general vote of the electors of the local municipality and who shall be the head of the council, and the following other members:

Composition  
of councils

1. The City—eight members consisting of,

- i. four members who shall be elected by wards, one from each ward, as members of the council of the City and of the County Council, and
- ii. four members who shall be elected by wards, one from each ward, as members of the council of the City.

2. A town—six members who shall be elected by a general vote of the electors of the town.

3. A township—four members who shall be elected by a general vote of the electors of the township.

4. A village—four members who shall be elected by a general vote of the electors of the village.

(2) Each member of the council of a local municipality has one vote.

One vote

(3) Despite section 37 of the *Municipal Act*, a person is qualified to be elected or hold office under paragraph 1 of subsection (1) if, in addition to being qualified under section 37 of the *Municipal Act*, that person at any time during the period commencing on the Tuesday following the first Monday in September in an election year and ending on the Monday in October that precedes polling day by twenty-eight

Qualifi-  
cations to  
hold office

days is a resident in or is the owner or tenant of land in or is the spouse of such an owner or tenant in the ward in which that person is seeking to be elected or to hold office.

O.M.B.  
order  
R.S.O. 1980,  
c. 302

**7.—(1)** Upon the application of a local municipality under subsection 13 (2) of the *Municipal Act*, or upon the petition of electors under subsection 13 (3) of that Act, the Municipal Board may, by order,

- (a) divide or redivide the local municipality into wards and designate the name or number each ward shall bear and declare the date when the division or redivision takes effect;
- (b) alter or dissolve any or all of the wards in the local municipality and declare the date when the alteration or dissolution takes effect; and
- (c) vary the composition of the council of the local municipality.

Limitation on  
order

(2) No order made under subsection (1),

- (a) shall take effect before the 1st day of December, 1994; or
- (b) shall alter the total number of members who represent the local municipality on the County Council or the number of votes assigned to the members under this Act.

Idem

(3) Despite subsection (1), the mayor of the local municipality shall continue to be elected by a general vote of the electors of the local municipality and shall be the head of council of the local municipality and a member of the County Council.

Where  
inquiry by  
Minister

(4) Where the Minister is inquiring into the structure, organization and methods of operation of a local municipality or the County, the Minister may give notice to the Municipal Board of the inquiry and request that any application or petition made under subsection (1) be deferred until the inquiry has been completed.

Idem

(5) If notice is given under subsection (4), all proceedings in the application or petition are stayed until the Minister gives notice to the Municipal Board that they may be continued.

No board of  
control

(6) A local municipality shall not have a board of control.



**8.**—(1) Every by-law and resolution of a former municipality shall be deemed to be a by-law or resolution of the City and shall remain in force in the area of the former municipality until the earlier of,

By-laws,  
resolutions of  
former  
municipalities

(a) the date it is amended or repealed by the council of the City; or

(b) the 31st day of December, 1992.

(2) Despite subsection (1), any by-law of a former municipality passed under section 34 of the *Planning Act, 1983*, or a predecessor of that section, and any official plan of a former municipality approved under the *Planning Act, 1983*, or a predecessor of that Act, shall remain in force until amended or repealed.

By-laws,  
official plans  
under  
1983, c. 1

(3) If a former municipality has commenced procedures to enact a by-law that requires the approval of a minister of the Crown, the Municipal Board or a provincial agency and the approval has not been obtained before the 31st day of December, 1990, the council of the City may continue the procedures to enact the by-law and subsection (1) applies with necessary modifications to the by-law.

By-laws that  
require  
approval

(4) Nothing in this section repeals or authorizes the amendment or repeal of,

By-laws,  
resolutions  
not affected

(a) by-laws or resolutions of the former municipalities passed under section 45, 58 or 61 of the *Drainage Act* or a predecessor of those sections; and

R.S.O. 1980,  
c. 126

(b) by-laws or resolutions conferring rights, privileges, franchises, immunities or exemptions that could not have been lawfully repealed by the councils of the former municipalities.

**9.** Except as otherwise provided in this Act, the assets and liabilities of the former municipalities and their local boards become assets and liabilities of the City or a local board thereof without compensation, and the City and its local boards stand in the place of the former municipalities and their local boards.

Assets and  
liabilities  
transferred to  
City

**10.** All taxes, charges or rates levied by a former municipality under any general or special Act that are due and unpaid on the 31st day of December, 1990 shall, after that date, be taxes, charges or rates due and payable to the City and may be collected and recovered by the City as if the taxes, charges or rates had been imposed by the City.

Taxes,  
charges, rates  
transferred to  
City



Dissolution  
of  
committees  
of adjustment

**11.**—(1) Subject to subsection (4), on the 1st day of January, 1991, the committees of adjustment of the former municipalities are dissolved.

City to  
establish  
committee of  
adjustment

(2) The City shall establish a committee of adjustment under section 43 of the *Planning Act, 1983*.

Applications  
continued

(3) All applications to the committees of adjustment of the former municipalities shall be deemed to be applications to and shall be continued by the committee of adjustment of the City.

Continuing  
matters

(4) The committees of adjustment dissolved under subsection (1) and the terms of office of the members of the committees shall continue to the 31st day of January, 1991 for the purpose of making a decision on any application for which a hearing is completed before the 1st day of January, 1991.

Dissolution  
of  
committees,  
boards under  
1982, c. 7,  
R.S.O. 1980,  
cc. 80, 417

**12.**—(1) The council of the City shall be deemed to be a recreation committee under the *Ministry of Tourism and Recreation Act, 1982*, a committee of management of a community recreation centre under the *Community Recreation Centres Act* and a board of park management under the *Public Parks Act* and all such committees and boards of the former municipalities are dissolved on the 1st day of January, 1991.

Idem

(2) All by-laws and resolutions of the boards and committees dissolved under subsection (1) are continued as by-laws and resolutions of the City, and shall remain in force until the earlier of,

(a) the date they are amended or repealed by the City;  
or

(b) the 31st day of December, 1992.

Certain  
by-laws,  
resolutions  
continue

(3) Nothing in this section repeals or authorizes the amendment or repeal of by-laws or resolutions conferring rights, privileges, franchises, immunities or exemptions that could not have been lawfully repealed by the boards and committees dissolved under subsection (1).

Repeal of  
certain  
by-laws,  
resolutions,  
appointments

**13.**—(1) Despite section 8,

(a) the by-laws and resolutions of the City of Sarnia establishing and appointing members to the Canada Day Committee, Committee of Parks and Recreation, Committee of Management of Marshall Gowland Manor, Planning Advisory Committee,

Sarnia Heritage Committee and the Sarnia Museum Board, all of the City of Sarnia, are repealed;

- (b) the by-laws and resolutions of the Town of Clearwater establishing and appointing members to the Planning Advisory Committee of the Town of Clearwater are repealed; and
- (c) the terms of office of the appointees of the City of Sarnia to the Property Standards Committee of the City of Sarnia are terminated.

(2) Nothing in this section prevents the City from or relieves the City of any responsibility for establishing or making appointments to boards and committees. Appointments

**14.**—(1) Despite section 8, the City, on or before the 31st day of January, 1991, shall, Fire departments

- (a) repeal the by-laws of the City of Sarnia and the Town of Clearwater establishing their respective fire departments; and
- (b) establish a fire department for the City.

(2) Every person who is a member of the fire department of the City of Sarnia or the Town of Clearwater on the 1st day of July, 1990 and continues to be a member until the 31st day of December, 1990 becomes a member of the fire department established under clause (1) (b). Fire fighters

(3) In subsection (2), “member” means a full-time fire fighter and a volunteer fire fighter as defined in the *Fire Departments Act*. Definition  
R.S.O. 1980,  
c. 164

**15.** Except as otherwise provided in this Act, the City or a local board thereof shall offer to employ every person who was employed by a former municipality or a local board thereof on the 1st day of July, 1990 and who continued to be so employed until the 31st day of December, 1990. Offer of employment

**16.**—(1) The Police Village of Inwood and the Police Village of Florence are dissolved on the 1st day of January, 1991. Dissolution of police villages

(2) The Municipal Board, upon the application of a local municipality or a local board thereof or of its own motion, may exercise the powers under section 25 of the *Municipal Act* consequent upon the dissolutions. Further powers  
R.S.O. 1980,  
c. 302

No further  
appeal  
R.S.O. 1980,  
c. 347

(3) Sections 94 and 95 of the *Ontario Municipal Board Act* do not apply to decisions or orders made in the exercise of the powers under subsection (2).

## PART II

### COUNTY COUNCIL

Application  
R.S.O. 1980,  
c. 302

**17.** This Part applies despite sections 27, 28 and 29 of the *Municipal Act*.

Interim  
County  
Council

**18.—(1)** During the pre-election period, the County Council shall have thirty-seven members consisting of,

- (a) the mayor, reeve and deputy reeve of the City;
- (b) the reeve of the Village of Alvinston, the Village of Arkona, the Village of Oil Springs and the Village of Thedford; and
- (c) the reeve and deputy reeve of the Town of Forest, the Town of Petrolia, the Village of Grand Bend, the Village of Point Edward, the Village of Watford, the Village of Wyoming, the Township of Bosanquet, the Township of Brooke, the Township of Dawn, the Township of Enniskillen, the Township of Euphemia, the Township of Moore, the Township of Plympton, the Township of Sombra and the Township of Warwick.

Distribution  
of votes

(2) The members of the County Council under subsection (1) shall have a total of seventy-three votes of which,

- (a) the mayor of the City shall have ten votes;
- (b) the reeve and deputy reeve of the City shall each have nine votes;
- (c) the reeve of the Township of Bosanquet and the Township of Moore shall each have three votes;
- (d) the reeve of the Town of Petrolia, the Township of Enniskillen, the Township of Plympton and the Township of Sombra shall each have two votes;
- (e) the deputy reeve of the Township of Bosanquet, the Township of Moore and the Township of Plympton shall each have two votes; and
- (f) all other members shall have one vote.



(3) The first meeting of the County Council shall be held after the council of the City has held its first meeting under subsection 4 (2) but, in any event, not later than the 15th day of January, 1991. First meeting

(4) Despite subsection 51 (1) of the *Municipal Act*, the County Council established under subsection (1) shall, at the first meeting at which a majority of the members is present, elect one of its members to be warden and, for such election, each member of County Council shall have one vote. Warden  
R.S.O. 1980,  
c. 302

(5) The term of the warden of the County holding office on the 30th day of November, 1990 is extended until a new warden is elected under subsection (4). Term of  
office

**19.**—(1) The County Council shall be composed of, Composition  
of County  
Council

(a) the mayor of each local municipality; and

(b) the four county ward members of the council of the City.

(2) The members of the County Council under subsection (1) shall have a total of thirty-seven votes of which, Distribution  
of votes

(a) the mayor and each county ward member of the council of the City shall have three votes;

(b) the mayor of the Township of Bosanquet, the Township of Moore and the Township of Plympton shall each have two votes; and

(c) all other members shall have one vote.

(3) The County Council shall review the distribution of votes under subsection (2) on or before the 1st day of January, 2001. Review

(4) Despite subsection 18 (2) and subsection (2) of this section, upon the recommendation of the Minister, the Lieutenant Governor in Council may by order provide for the manner in which the County Council votes of the mayors of municipalities being amalgamated should be distributed to the local municipalities, other than the City, that would exist after such amalgamation. Distribution  
of votes of  
mayors

**20.**—(1) Despite subsections 19 (2), for the purposes of electing the warden of County Council, each member shall have one vote. Election of  
warden



County  
warden

(2) The warden of the County Council shall bear the title of county warden.

Vacancies

**21.** The seat of a mayor of a local municipality and the seat of a county ward member of the council of the City becomes vacant if his or her seat on the County Council is declared vacant by the County Council.

Offer of  
employment

**22.** The County or a local board thereof shall offer to employ every person who, on the 1st day of July, 1990, was employed in any undertaking carried on by or on behalf of any former or local municipality or local board thereof that is assumed by the County or a local board thereof under this Act and who continues to be so employed until the 31st day of December, 1990.

By-laws,  
resolutions  
continued

**23.**—(1) Every by-law and resolution of a former or local municipality in respect of any undertaking carried on by or on behalf of a former or local municipality that is assumed by the County under this Act shall be deemed to be a by-law or resolution of the County and shall remain in force in the area of the former or local municipality until the earlier of,

(a) the date it is amended or repealed by the council of the County; or

(b) the 31st day of December, 1992.

By-laws that  
require  
approval

(2) If a former or local municipality has commenced procedures to enact a by-law that requires the approval of a minister of the Crown, the Municipal Board or a provincial agency and the approval has not been obtained before the 31st day of December, 1990, the council of the County may continue the procedures to enact the by-law and subsection (1) applies with necessary modifications to the by-law.

By-laws,  
resolutions  
not affected

(3) Nothing in this section repeals or authorizes the amendment or repeal of by-laws or resolutions conferring rights, privileges, franchises, immunities or exemptions that could not have been lawfully repealed by the councils of the former municipalities.

Assets and  
liabilities  
transferred to  
County

**24.** All assets and liabilities of a former or local municipality or a local board thereof in respect of any undertaking carried on by or on behalf of any former or local municipality or local board thereof that is assumed by the County or a local board thereof under this Act become assets and liabilities of the County or a local board thereof without compensation, and the County and its local boards stand in the place of the former or local municipalities and their local boards.

## PART III

## FORMER MUNICIPALITIES

**25.**—(1) The City of Sarnia and the Town of Clearwater Agreement shall enter into an agreement with respect to,

- (a) fee structures;
- (b) capital improvements;
- (c) the adequacy of public buildings;
- (d) maintenance of current levels of services;
- (e) shared capital expenditures;
- (f) impost fees;
- (g) capital improvements;
- (h) cash in lieu of parkland;
- (i) organizational structures;
- (j) the financing of capital expenditures;
- (k) capital budgets;
- (l) equipment reserve accounts;
- (m) contributions to reserve accounts;
- (n) shoreline protection;
- (o) public transit;
- (p) rural water supply;
- (q) water meters; and
- (r) major recreation complexes.

(2) The councils of the County, the City of Sarnia and the Town of Clearwater shall establish a joint implementation committee to make recommendations with respect to the agreement and any other matter set out in this Act.

Joint  
committee

(3) The joint committee shall submit its recommendations to the Minister on or before the 1st day of May, 1990.

Recommen-  
dations to be  
submitted to  
Minister

Order  
effecting  
recommen-  
dations

(4) Subject to any other Act, the Lieutenant Governor in Council may, upon the recommendation of the Minister, by order give effect to any recommendation of the joint committee.

## PART IV

### SARNIA HYDRO

Hydro  
commission

R.S.O. 1980,  
cc. 423, 384

Composition  
of  
commission

**26.**—(1) A hydro-electric power commission for the City is hereby established on the 1st day of January, 1991 and shall be deemed to be a commission established under Part III of the *Public Utilities Act* and a municipal commission within the meaning of the *Power Corporation Act*.

(2) Despite section 41 of the *Public Utilities Act*, the hydro-electric power commission shall,

(a) during the pre-election period, be composed of,

(i) the members of the commission dissolved under subsection (5), and

(ii) the deputy mayor and reeve of the City; and

(b) after the pre-election period, be composed of,

(i) the mayor of the City, and

(ii) four other members who are qualified electors in the City under the *Municipal Elections Act* who shall be elected by a general vote of the electors of the City.

R.S.O. 1980,  
c. 308

Term of  
office

(3) A member of the commission shall hold office for the same term as the members of council or until the successor of the member is elected or appointed.

Delegate of  
mayor

(4) The council of the City may by by-law, passed with the written consent of the mayor, appoint a delegate from among the members of the council to represent the mayor on the commission.

Dissolution

(5) The Hydro-Electric Commission of the City of Sarnia is dissolved on the 1st day of January, 1991.

Transfer of  
assets,  
liabilities

(6) On the 1st day of January, 1991, the assets of the Town of Clearwater, the assets under the control and management of the commission dissolved under subsection (5) and the liabilities of the Town of Clearwater and of such commission



that relate to the distribution and supply of electrical power become assets under the control and management of and liabilities of the commission established under subsection (1), without compensation.

(7) On the 1st day of January, 1991, the commission established under subsection (1) shall acquire the retail distribution facilities within the Town of Clearwater used by Ontario Hydro on the 31st day of December, 1990 in the retail distribution of power, including equipment leased by Ontario Hydro to retail customers within the Town of Clearwater for the use of such power, and the price of the facilities shall be equal to the original cost of the facilities less the sum of the accumulated net retail equity of the customers supplied with power through the facilities and the accumulated depreciation associated with the facilities.

Purchase of  
retail  
distribution  
facilities from  
Ontario  
Hydro

(8) In subsection (7),

Definitions

“accumulated net retail equity” means the portion of the equity accumulated through debt retirement appropriations recorded for the rural power district relating to Ontario Hydro’s rural retail system plus the portion of the balance recorded for rural retail customers in the Stabilization of Rates and Contingencies Account, in the books of Ontario Hydro;

“retail distribution facilities” means works for the transmission and supply of power at voltages less than 50 kilovolts other than works located within a transformer station that transforms power from voltages greater than 50 kilovolts to voltages less than 50 kilovolts.

(9) All by-laws and resolutions of the Town of Clearwater and of the commission dissolved under subsection (5) that relate to the distribution and supply of electrical power are continued as by-laws and resolutions of the commission established under subsection (1), and shall remain in force until the earlier of,

Continuation  
of by-laws,  
resolutions

(a) the date they are amended or repealed by the commission; or

(b) the 31st day of December, 1992.

(10) Nothing in this section repeals or authorizes the amendment or repeal of by-laws or resolutions conferring rights, privileges, franchises, immunities or exemptions that could not have been lawfully repealed by the Town of

Certain  
by-laws,  
resolutions  
remain  
effective



Clearwater or by the commission dissolved under subsection (5).

## PART V

### POLICE

Boards of  
Commissioners of  
Police

**27.**—(1) On the 1st day of January, 1990, The Board of Commissioners of Police of the City of Sarnia and The Board of Commissioners of Police of the Town of Clearwater are amalgamated and the new board shall be deemed to be a board established under section 8 of the *Police Act*.

R.S.O. 1980,  
c. 381

Interim  
board

(2) Despite section 8 of the *Police Act*, from the 1st day of January, 1990 to the 30th day of November, 1991, inclusive, the board shall be composed of the members of the boards amalgamated under this section.

Composition  
of board

(3) On and after the 1st day of December, 1991, the board shall be composed of those members provided for under section 8 of the *Police Act*.

Temporary  
name

(4) During 1990, the board shall be called "The Board of Commissioners of Police of the City of Sarnia and the Town of Clearwater".

Police service

(5) During 1990, the board is responsible for providing police service for the City of Sarnia and the Town of Clearwater and, for the purpose of exercising its powers under any general or special Act, the City of Sarnia and the Town of Clearwater shall be deemed to be amalgamated as a city municipality.

Idem

(6) On and after the 1st day of January, 1991, the board is responsible for providing police service for the City.

Local board

**28.**—(1) During 1990, the board shall be deemed to be a local board of the City of Sarnia and not of the Town of Clearwater.

Rights  
protected

(2) Despite subsection (1), a resident or elector of the Town of Clearwater has the same rights and privileges as a resident or elector of the City of Sarnia relating to police matters.

Transfer to  
City

(3) On the 1st day of January, 1991, the board shall continue as the board of commissioners of police of the City and a local board of the City.

**29.**—(1) The board shall, in preparing its 1990 estimates under subsection 14 (2) of the *Police Act*, show separately the amount required to provide police service in the Town of Clearwater and in the City of Sarnia.

Estimates  
R.S.O. 1980,  
c. 381

(2) The amount of the estimates for providing police service in the Town of Clearwater shall be deemed to be a debt of the Town of Clearwater falling due in 1990 for the purposes of section 164 of the *Municipal Act*, and the Town of Clearwater shall pay this amount to the City of Sarnia no later than the 30th day of June, 1990.

Idem  
R.S.O. 1980,  
c. 302

(3) If there is a disagreement between the City of Sarnia and the Town of Clearwater on how the estimates are broken down under subsection (1), the City of Sarnia or the Town of Clearwater may refer the matter to the Ontario Police Commission and the decision of the Ontario Police Commission is final.

Disagree-  
ments

**30.** On the 1st day of January, 1990, the assets under the control and management of the boards amalgamated under subsection 27 (1) and all liabilities of such boards become assets under the control and management of and liabilities of the board, without compensation.

Transfer of  
assets,  
liabilities

**31.**—(1) On the 1st day of January, 1990, all by-laws and resolutions of the boards amalgamated under subsection 27 (1) are continued as by-laws and resolutions of the board and shall remain in force in the former municipality for which they were passed until the earlier of,

Continuation  
of by-laws,  
resolutions

(a) the date they are amended or repealed by the board; or

(b) the 31st day of December, 1990.

(2) Nothing in this section repeals or authorizes the amendment or repeal of by-laws or resolutions conferring rights, privileges, franchises, immunities or exemptions that could not have been lawfully repealed by the boards amalgamated under subsection 27 (1).

Certain  
by-laws,  
resolutions  
remain  
effective

**32.** On and after the 1st day of January, 1991, the board and the members of the police force of the City shall have the same duties with respect to by-laws of the County as they do with respect to by-laws of the City.

Responsi-  
bility for  
County  
enforcement

**33.** Every person who is a member of the police force of the Town of Clearwater or of the police force of the City of Sarnia on the 1st day of July, 1989, and who continues to be a

Transfer of  
police  
personnel

member until the 31st day of December, 1989, becomes on the 1st day of January, 1990 a member of the police force created by the amalgamation under subsection 27 (1).

## PART VI

### BOUNDARY ADJUSTMENTS

Application  
of  
1981, c. 70

**34.**—(1) This Part applies to applications made to the Minister under section 2 of the *Municipal Boundary Negotiations Act, 1981*, that are being processed on the day this Part comes into force, and to future applications made under that section before the 1st day of January, 1991, to resolve an intermunicipal boundary issue or an intermunicipal boundary-related issue in the County.

Idem

(2) Subsection (1) does not apply to an issue involving a boundary of the County unless, in the opinion of the Minister, that issue is of a minor nature.

1981, c. 70  
does not  
apply

(3) Except as otherwise provided in this Part, the *Municipal Boundary Negotiations Act, 1981* does not apply to an application to which this Part applies.

Exception

(4) Sections 15 to 21 of the *Municipal Boundary Negotiations Act, 1981* apply with necessary modifications to an application to which this Part applies and to an order made under section 40.

Boundary  
application  
committee

**35.**—(1) The warden of County Council shall, within thirty days of this Part coming into force, appoint a boundary application committee.

Composition  
of committee

(2) The committee shall have five members consisting of,

(a) the warden;

(b) two members of County Council representing towns or villages; and

(c) two members of County Council representing townships.

Presiding  
officer

(3) The members of the committee shall appoint a presiding officer.

Guidelines

**36.** The committee shall establish guidelines for considering boundary applications in consultation with the Ministry of Municipal Affairs.



**37.—**(1) For each application to which this Part applies, the committee shall, having regard for the guidelines established under section 36, Duties of committee

- (a) determine and inquire into the issues raised by the application;
- (b) determine the party municipalities which have a substantial interest in the issues raised; and
- (c) obtain the opinion of the party municipalities and of any local board that the committee considers is affected by the application, on the issues raised by the application.

(2) Subject to subsections (4) and (5), the committee shall Idem prepare and submit to County Council a report setting out,

- (a) the issues;
- (b) the party municipalities in respect of each issue;
- (c) the extent of agreement or disagreement on the issues;
- (d) any agreement the party municipalities have reached on any of the issues;
- (e) the recommendations of the committee on how the issues raised by the application should be resolved; and
- (f) any other matters the committee considers appropriate.

(3) The committee may make recommendations under Recommendations clause (2) (e) with respect to,

- (a) the matters set out in paragraphs 1 to 24 of section 14 of the *Municipal Boundary Negotiations Act, 1981*; 1981, c. 70
- (b) the name of a local municipality; and
- (c) in the event the committee recommends an amalgamation, how the County Council votes of the mayors of the municipalities being amalgamated should be distributed to the local municipalities, other than the City, that would exist after such amalgamation.



Public  
meeting

(4) The committee shall, before preparing its report, hold at least one public meeting for the purpose of obtaining information, comments or opinions regarding the application.

Idem

(5) The committee shall, after preparing its report and before submitting it to County Council, hold at least one public meeting for the purpose of obtaining submissions and comments from the public in respect of the contents of the report.

Amendments  
to report

(6) The committee may amend its report after the public meeting required under subsection (5) and before submitting it to County Council.

Notice of  
meeting

(7) Notice of a public meeting required under subsection (4) or (5) shall be given at least fifteen days in advance of each meeting by publishing it in a newspaper having general circulation in the party municipalities.

County  
proposal

**38.**—(1) The County Council shall consider the report of the committee and shall, within sixty days after receiving the report and having regard to the guidelines established by the committee under section 36, submit to the Minister a proposal with respect to the resolution of the issues raised by the application.

Recommendations

(2) The proposal may contain recommendations with respect to the matters set out in subsection 37 (3).

Action by  
Minister

**39.** The Minister shall, within sixty days of receipt of the proposal,

- (a) submit to the Lieutenant Governor in Council a recommendation with respect to one or more of the matters set out in subsection 37 (3);
- (b) refer any issue back to County Council or the committee for further consideration;
- (c) terminate further consideration of the application;
- (d) refer any issue to the Municipal Board to hear any party municipality and, after a hearing, to make recommendations thereon; or
- (e) take such other action as the Minister considers appropriate.

Order

**40.** Upon receipt of the recommendation of the Minister, the Lieutenant Governor in Council may by order provide for one or more of the matters set out in subsection 37 (3).

## PART VII

## ASSUMPTION OF LOCAL POWERS BY THE COUNTY

**41.**—(1) In this Part, “local power” means a power that is conferred by any general or special Act on local municipalities or local boards thereof and that is prescribed by the Minister. Local power

(2) The County Council may pass by-laws to assume any local power for all of the local municipalities. Assumption  
of local  
power

(3) No by-law under subsection (2) shall be passed or repealed unless, Double  
majority vote

(a) a majority of all the votes on County Council are cast in its favour; and

(b) members of County Council representing a majority of the local municipalities cast their votes in its favour.

(4) For the purpose of clause (3) (b), the members of County Council representing the City shall only be considered to have cast their votes in favour of a by-law if at least three of the City representatives cast their votes in its favour. Idem

(5) When a by-law passed under subsection (2) comes into effect, Effect of  
by-law

(a) the County is responsible for the local powers assumed by the County in all of the local municipalities;

(b) the County has the powers conferred by any general or special Act upon the local municipalities or local boards thereof related to the local powers assumed by the County;

(c) no local municipality shall exercise the local powers assumed by the County and any by-law or other measure of a local municipality under that power is of no effect; and

(d) no local municipality shall provide any service or facility under the local power assumed by the County within the County without the consent of County Council, which consent may be given upon such conditions, including the payment of compensation, as may be agreed upon.

Appeal to  
O.M.B.

(6) If consent is refused under clause (5) (d) or the council of the local municipality and the County Council fail to agree on the conditions related to the consent, the applicant may appeal to the Municipal Board which shall hear and determine the matter.

Decision of  
Board final

(7) The Municipal Board may impose such conditions as it considers appropriate and the decision of the Municipal Board is final.

No further  
appeal  
R.S.O. 1980,  
c. 347

(8) Section 94 of the *Ontario Municipal Board Act* does not apply to a decision made under subsection (7).

Transfer of  
rights, obliga-  
tions, etc.

**42.**—(1) All rights, obligations, assets and liabilities of a local municipality or local board thereof pertaining to the local powers assumed by the County are vested in the County and financial adjustments, calculated in accordance with such criteria as may be prescribed, shall be made between the County and the local municipalities or local boards thereof.

Assumption  
by County of  
debt

(2) The County shall pay to the local municipality or local board thereof on or before the due date all amounts of principal and interest becoming due upon any outstanding debt of that local municipality or local board in respect of the local powers assumed by the County.

Interest

(3) If the County fails to make any payment required under subsection (2) on or before the due date, the local municipality or local board may charge the County interest at the rate of 15 per cent per annum, or such lower rate as the local municipality or local board determines, from the due date until payment is made.

Agreements

**43.**—(1) If a local municipality or local board thereof had entered into an agreement with any municipality or other person in respect of the local power assumed by the County, the County shall be bound by and entitled to the benefit of the agreement and the local municipality or local board thereof is relieved of all liability under the agreement.

Idem

(2) The County Council may enter into agreements with any municipality or other person for establishing, constructing, operating or managing any service or facility that is within the jurisdiction of the County Council as a result of the passage of the by-law under subsection 41 (2).

Rates  
R.S.O. 1980,  
c. 302

**44.**—(1) Despite sections 368 and 368e of the *Municipal Act*, the County Council may by by-law provide for imposing on and collecting from the local municipalities for which it is providing services or facilities under the assumed local powers



a rate sufficient to pay the whole, or such portion as the by-law may specify, of the expenditures and capital costs including debenture charges related to the services or facilities and such rate may vary on any basis the County Council considers appropriate and specifies in the by-law.

(2) All rates under subsection (1) constitute a debt of the local municipality to the County and are payable at such times and in such amounts as may be specified by by-law of the County Council. Idem

(3) Despite sections 368 and 368e of the *Municipal Act*, a local municipality may, Collection of rates  
R.S.O. 1980,  
c. 302

- (a) pay the whole or part of the amount chargeable to it under this section out of its general funds;
- (b) pass by-laws for collecting the whole or part of the amount chargeable to it under this section in the same manner as that local municipality could have collected the amount if the local power had not been assumed by the County; and
- (c) include the whole or any part of an amount chargeable to it under this section as part of the cost of an urban service within an urban service area established in the local municipality under any general or special Act.

**45.—**(1) When a by-law under subsection 41 (2) is repealed, Repeal of  
by-law

- (a) the local powers assumed by the County revert to the local municipalities and local boards thereof as they exist on the day the by-law is repealed;
- (b) all rights, obligations, assets and liabilities of the County or local board thereof pertaining to the local powers are vested in the local municipalities or local boards thereof;
- (c) financial adjustments, calculated in accordance with such criteria as may be prescribed, shall be made between the County or local board thereof and the local municipalities or local boards thereof; and
- (d) the local municipalities or local boards thereof shall pay to the County or local board thereof on or before the due date all amounts of principal and interest becoming due upon any outstanding debt of



the County or local board thereof in respect of the local powers reverting to the local municipalities or local boards thereof.

Interest

(2) If the local municipalities or local boards thereof fail to make any payment required under clause (1) (d) on or before the due date, the County or local board thereof may charge the local municipalities or local boards thereof interest at the rate of 15 per cent per annum, or such lower rate as the County or local board thereof determines, from the due date until payment is made.

Agreements

(3) If the County or local board thereof had entered into an agreement with any municipality or other person in respect of the local power reverting to the local municipalities or local boards thereof, the local municipalities or local boards thereof are bound by the agreement and the County or local board thereof is relieved of all liability under the agreement.

Disputes

**46.**—(1) If a dispute arises in respect of the financial adjustments or the vesting of assets and liabilities under subsection 42 (1) or clause 45 (1) (b), or the transfer of agreements under subsection 43 (1) or subsection 45 (3), the County, local municipality or local board affected may apply to the Municipal Board for a resolution of the dispute and the Municipal Board shall hear and determine the matter and its decision is final.

R.S.O. 1980,  
c. 347, s. 94  
does not  
apply

(2) Section 94 of the *Ontario Municipal Board Act* does not apply to a decision made under subsection (1).

Regulations

**47.**—(1) The Lieutenant Governor in Council may make regulations,

- (a) providing for the security of employment, the protection of benefits, including seniority and pensions, and early retirement options for employees affected by by-laws passed or repealed under this section;
- (b) prescribing the criteria for determining the amount of and the manner of payment of the financial adjustments under subsections 42 (2) and 45 (1) and for providing which body shall pay and which body shall receive the payments made under those subsections.

Minister's  
order

(2) The Minister may by order prescribe the local powers to which this Part applies.

## PART VIII

## WASTE DISPOSAL

**48.** In this Part, "waste" means garbage, refuse, domestic waste, industrial solid waste or municipal refuse and such other waste as may be designated by by-law of the County Council. Definition

**49.—**(1) On and after the 1st day of January, 1991, the County shall provide facilities for receiving, dumping and disposing of waste and no local municipality or local board thereof shall provide such facilities. County waste facilities

(2) For the purposes of subsection (1), the County Council has the powers conferred by any general or special Act upon the local municipalities and local boards thereof for the receiving, dumping and disposing of waste. County powers

(3) The County Council may, for each local municipality, designate one or more facilities for the receiving, dumping and disposing of waste or any class thereof. Designated facilities

(4) If a designation has been made, a local municipality shall not utilize any facilities except the facilities that have been designated for that local municipality. Idem

**50.—**(1) No facilities for the receiving, dumping and disposing of waste shall be provided in the County by any municipality or other person without the consent of the County Council, which consent may be given upon such terms, including the payment of compensation, as may be agreed upon. Waste disposal, County responsibility

(2) Subsection (1) does not apply to prevent any person or any municipality which does not form part of the County for municipal purposes from providing facilities for the receiving, dumping and disposing of waste if such facilities were being lawfully provided on the 1st day of January, 1991, so long as that facility continues to operate without interruption. Existing facilities

(3) If the County Council refuses its consent under subsection (1) or the applicant and the County Council fail to agree on the terms related to the consent, the applicant may appeal to the Municipal Board which shall hear and determine the matter and may impose such conditions as the Board considers appropriate. Disagreements to O.M.B.

(4) The decision of the Municipal Board is final. Decision final

R.S.O. 1980,  
c. 347, s. 94  
does not  
apply

(5) Section 94 of the *Ontario Municipal Board Act* does not apply to a decision made under subsection (3).

Agreements

**51.** The County Council may enter into agreements with any municipality or other person for establishing, constructing, operating or managing, facilities for the receiving, dumping and disposing of waste.

Adoption of  
certain  
provisions

**52.** Section 42, subsection 43 (1), section 44 and clause 47 (1) (b) apply with necessary modifications to the powers granted to the County under this Part to provide facilities for receiving, dumping and disposing of waste.

Disputes

**53.** If a dispute arises in respect of the financial adjustments or the vesting of assets and liabilities, or the transfer of agreements under this Part, the board of arbitrators established under section 80 has the power to hear and determine the matter.

## PART IX

### COUNTY ROAD SYSTEM

County roads

**54.** On and after the 1st day of January, 1991, all roads under the jurisdiction and control of the County shall continue to form part of the county road system together with,

- (a) the roads that on the 31st day of December, 1990 are under the jurisdiction and control of the Sarnia Suburban Roads Commission;
- (b) the roads within the City prescribed by the Minister; and
- (c) the roads that on the 31st day of December, 1990 are covered by an agreement under section 58 of the *Public Transportation and Highway Improvement Act*.

R.S.O. 1980,  
c. 421

Dissolution  
of roads  
commission

**55.—(1)** The Sarnia Suburban Roads Commission is dissolved on the 1st day of January, 1991 and the assets and liabilities of the commission are transferred to the County on that date.

Transfer of  
benefits,  
liabilities

(2) The County has, in respect of the roads included in the county road system, all the rights, powers and benefits conferred and is subject to all liabilities imposed by statute, by-law, contract or otherwise upon the Sarnia Suburban Roads Commission.



**56.**—(1) Despite subsections 270 (1), (2) and (4) of the *Municipal Act*, the County Council may by by-law assume as a county road any highway within a local municipality.

Assumption  
of highways  
by County  
R.S.O. 1980,  
c. 302

(2) A by-law passed under subsection (1) does not take effect until assented to by the council of the local municipality.

Consent  
required

(3) The County Council may by by-law assume as a county road any highway in a local municipality that connects with a county road.

Connecting  
roads

**57.**—(1) Sections 58 and 59 of the *Public Transportation and Highway Improvement Act* do not apply to the County or the local municipalities.

R.S.O. 1980,  
c. 421, ss.  
58, 59 do  
not apply

(2) All existing agreements between the County and a local municipality under section 58 of the *Public Transportation and Highway Improvement Act* are terminated on the 1st day of January, 1991.

Existing  
agreements  
R.S.O. 1980,  
c. 421

**58.**—(1) Despite subsections 278 (1) and (2) of the *Municipal Act*, a bridge that, on the 31st day of December, 1990, is under the exclusive or joint jurisdiction and control of County Council is on the 1st day of January, 1991 transferred to and vested in the council of the local municipality that has jurisdiction over the highway on which the bridge is situate.

Bridges  
R.S.O. 1980,  
c. 302

(2) Subsection (1) does not apply to bridges,

Limitation

(a) on county roads;

(b) on a boundary line between local municipalities; or

(c) on a county boundary line.

**59.** The Minister may by order prescribe the roads within the City which are county roads.

Minister's  
order

## PART X

### HEALTH AND SOCIAL SERVICES

**60.**—(1) On and after the 1st day of January, 1991, the Lambton Health Unit shall be composed of,

Lambton  
Health Unit

(a) not more than six members appointed from and by the County Council; and



- (b) not more than two persons appointed by the Lieutenant Governor in Council upon the recommendation of the Minister of Health.

County  
responsible  
for expenses  
1983, c. 10

(2) Despite any other Act, the expenses incurred by the Lambton Health Unit in establishing and maintaining the health unit and performing its functions under the *Health Protection and Promotion Act, 1983* or any other Act shall be paid by the County.

County  
responsible  
under  
R.S.O. 1980,  
c. 188

**61.** For the purposes of the *General Welfare Assistance Act*, no local municipality shall be deemed to be a municipality and the County shall have sole responsibility as a County for all matters provided for in that Act.

Homes for  
the aged

**62.**—(1) The homes for the aged known as Twilight Haven, North Lambton and Marshall Gowland, and all assets and liabilities thereof, vest solely in the County on and after the 1st day of January, 1991.

No local  
municipality  
has authority  
under  
R.S.O. 1980,  
c. 203  
Costs

(2) No local municipality has authority to establish, erect or maintain a home for the aged under the *Homes for the Aged and Rest Homes Act*.

R.S.O. 1980,  
c. 302

(3) The costs of operating and maintaining Twilight Haven, North Lambton and Marshall Gowland shall form part of the levy under section 164 of the *Municipal Act*.

1984, c. 55  
does not  
apply to local  
municipality

**63.** No local municipality shall be deemed to be a municipality for the purposes of the *Child and Family Services Act, 1984*.

Information  
to be  
provided to  
County

**64.** Every local municipality and every officer or employee thereof shall, at the request of the officers of the County who are responsible for the administration of the Acts referred to in this Part, furnish to the County officers any information they may require for the purposes of this Act.

## PART XI

### PUBLIC LIBRARIES

County  
library board

**65.**—(1) A county library board for the entire County to be known as "The Lambton County Library Board" is hereby established on the 1st day of January, 1991 and shall be deemed to be a county library board established under Part I of the *Public Libraries Act, 1984*.

1984, c. 57

(2) Subsection 9 (6) of the *Public Libraries Act, 1984* does not apply in the County.

1984, c. 57,  
s. 9 (6)  
does not  
apply

(3) All local municipalities shall be deemed to be participating municipalities for the purposes of subsection 26 (1) of the *Public Libraries Act, 1984*.

Apportion-  
ment of  
county levy

(4) All library boards of the County, local municipalities and former municipalities are dissolved on the 1st day of January, 1991 and their assets and liabilities are transferred to the county library board established under subsection (1), without compensation.

Transfer of  
assets,  
liabilities to  
county  
library board

(5) All by-laws, rules, regulations and fees passed or established by the boards dissolved under subsection (4) are continued as by-laws, rules, regulations and fees of the county library board and shall remain in force until the earlier of,

Continuation  
of by-laws,  
etc.

(a) the date they are amended or repealed by the board; or

(b) the 31st day of December, 1992.

(6) Nothing in this section repeals or authorizes the amendment or repeal of by-laws conferring rights, privileges, franchises, immunities or exemptions that could not have been lawfully repealed by a board dissolved under subsection (4).

Certain  
by-laws  
continued

**66.** The County shall pay to each local municipality, on or before the due date, all amounts of principal and interest becoming due upon any outstanding debt of each local municipality in respect of public libraries and, if the County fails to pay the amounts before the due date, the local municipality may charge the County interest at the annual rate of 15 per cent, or such lower rate as the local municipality determines, from the due date until payment is made.

Debt  
transferred to  
County

**67.** Every person who was an employee of a board dissolved under this Part on the 1st day of July, 1990, and continues to be employed until the 31st day of December, 1990, becomes, on the 1st day of January, 1991, an employee of the county library board.

Transfer of  
employees

## PART XII

### FINANCES

**68.** In this Part,

Definitions

R.S.O. 1980,  
c. 31

“average municipal commercial mill rate” means, in respect of a local municipality, the rate obtained by dividing the total of taxes levied for all purposes, other than for school purposes and other than under sections 32 and 33 of the *Assessment Act*, on the commercial assessment for the preceding year by the total commercial assessment for the preceding year and multiplying the result by 1,000;

R.S.O. 1980,  
c. 359

“commercial assessment” means commercial assessment as defined in clause 1 (1) (b) of the *Ontario Unconditional Grants Act*;

“discounted assessment” means, for a local municipality or for a merged area, the sum of,

- (a) the product obtained by multiplying the residential and farm assessment for that local municipality or that merged area by 0.5131, and
- (b) the commercial assessment for that local municipality or that merged area;

“discounted equalized assessment” means, for each local municipality, the sum of the discounted assessment and the equivalent assessment of that local municipality divided by its prescribed equalization factor and multiplied by 100;

“discounted equalized assessment for each merged area” means the discounted assessment of the merged area divided by its prescribed equalization factor and multiplied by 100;

R.S.O. 1980,  
c. 302

“equivalent assessment” means, for a local municipality, that portion of its payments in lieu of taxes in the preceding year, as defined in clause 365 (1) (j) of the *Municipal Act*, not allocated for school purposes, divided by the average municipal commercial mill rate and multiplying the result by 1,000;

“merged area” means the area of the City of Sarnia or the area of the Town of Clearwater;

“net county levy” means the amount required for County purposes under subsection 365 (6) of the *Municipal Act* including the sums required for any board, commission or other body, apportioned to each local municipality by the County;

“net lower tier levy” means the amount required for the purposes of a local municipality under section 164 of the



*Municipal Act* including the sums required for any board, commission or other body, but excluding amounts required to be raised for County and school purposes or for a special rate imposed under section 79; R.S.O. 1980, c. 302

“residential and farm assessment” means residential and farm assessment as defined in clause 7 (1) (e) of the *Ontario Unconditional Grants Act*. R.S.O. 1980, c. 359

**69.**—(1) For purposes of apportioning the net county levy or the net lower tier levy among the respective merged areas, the Minister may, in each year, prescribe the equalization factor to apply for that year to each local municipality within the County and each merged area. Prescribed equalization factor

(2) Despite subsection 365 (6) of the *Municipal Act*, the treasurer of the County shall determine, Annual County apportionment

(a) the discounted equalized assessment of each local municipality in the County;

(b) the discounted equalized assessment of the County; and

(c) the percentage share of apportionment, correct to three decimal places, for each local municipality by dividing the discounted equalized assessment for each local municipality by the discounted equalized assessment of the County and multiplying the result by 100.

**70.**—(1) In each year, the Ministry of Municipal Affairs shall calculate and notify the City of the discounted equalized assessment for each merged area. Annual merged area apportionment

(2) Despite subsection 7 (2) of the *Ontario Unconditional Grants Act*, the net county levy and the net lower tier levy of the City shall be levied against the whole rateable property, including business assessment thereon, of the City and apportioned between the merged areas of the City in the proportion that the discounted equalized assessment for each merged area bears to the total discounted equalized assessment of both merged areas. How levies apportioned R.S.O. 1980, c. 359

(3) The rates to be levied in each merged area of the City shall be determined in accordance with subsection 7 (3) of the *Ontario Unconditional Grants Act*. Determination of rates

**71.**—(1) Despite section 70, the council of the City may by by-law in any year, before the adoption of the estimates for Interim levy



that year, levy in each of the merged areas, on the whole of the assessment for real property, including business assessment in the merged area, according to the last returned assessment roll, a sum not exceeding 50 per cent of that which would be produced by applying to such assessment the total rate for all purposes levied in the merged area in the preceding year on residential real property of public school supporters.

Adjustments

(2) The amount of any levy under subsection (1) shall be deducted from the amount of the levy made under subsection 70 (2).

Application  
of  
R.S.O. 1980,  
c. 302,  
s. 159 (5)

(3) Subsection 159 (5) of the *Municipal Act* applies to levies made under subsection (1).

Merged areas  
under  
R.S.O. 1980,  
c. 129

**72.**—(1) For the purposes of levying taxes under Part IV of the *Education Act*, the merged areas shall be deemed to be municipalities, and the council of the City shall be deemed to be the council of each merged area.

Regulations

(2) The Lieutenant Governor in Council may each year make regulations providing for the apportionment of the sums required by the Lambton County Board of Education and The Lambton County Roman Catholic Separate School Board with respect to any local municipality or merged area or parts thereof that are wholly or partly within their area of jurisdiction.

Where  
county-wide  
assessment  
R.S.O. 1980,  
c. 302

**73.** Sections 69, 70, 71 and 72 of this Part and sections 365, 366 and 368 of the *Municipal Act* cease to apply to the County and the local municipalities if the County has been subject to an assessment update under section 368b of the *Municipal Act*.

Direction of  
Minister of  
Revenue

**74.**—(1) Despite subsections 368b (3) and (3a) of the *Municipal Act*, in 1991, for the purposes of taxation in 1992, the Minister of Revenue shall make a direction under subsection 368b (2) of the *Municipal Act* for changes to be made to the assessment rolls of the local municipalities.

Grants

(2) If the Minister is of the opinion that taxes for school purposes in a local municipality may be unduly increased because of changes made to the assessment rolls of local municipalities as a result of a direction under subsection (1), the Minister may make a grant to the local municipality under such terms as the Minister considers necessary in the circumstances.

(3) If, in any year, a local municipality receives a grant under subsection (2), the local municipality shall, in that year, use the grant to reduce the increases in the amounts the local municipality is required to levy for school purposes.

Grant to be used to reduce increases

(4) Nothing in this Part prevents or restricts a local municipality from passing by-laws under section 362 or 363 of the *Municipal Act*.

Certain by-laws not affected  
R.S.O. 1980, c. 302

**75.—**(1) In 1991, the council of the City shall, in the manner prescribed by the Minister, levy on the whole of the assessment for real property and business assessment according to the last returned assessment roll pertaining to the merged area of the Town of Clearwater rates of taxation for general purposes which shall not be increased over the 1990 rates by more than the lesser of,

1991 City rates

- (a) 3.5 per cent of the rates of taxation for general purposes in the Town of Clearwater in 1990; and
- (b) the rate of inflation for the calendar year of 1990, as determined by the Consumer Price Index published by Statistics Canada.

(2) In 1992, the council of the City shall, in the manner prescribed by the Minister, levy on the whole of the assessment for real property and business assessment according to the last returned assessment roll pertaining to the merged area of the Town of Clearwater rates of taxation for general purposes which shall limit the aggregate levy for general purposes upon the merged area to the lesser of,

1992 City rates

- (a) 103.5 per cent of the dollar amount levied for general purposes in the merged area of the Town of Clearwater in 1991; and
- (b) 100 per cent plus the rate of inflation for the calendar year of 1991, as determined by the Consumer Price Index published by Statistics Canada, of the dollar amount levied for general purposes in the merged area of the Town of Clearwater in 1991.

(3) In 1993, the council of the City shall, in the manner prescribed by the Minister, levy on the whole of the assessment for real property and business assessment according to the last returned assessment roll pertaining to the merged area of the Town of Clearwater rates of taxation for general purposes which shall not be increased over the 1992 rates by more than the lesser of,

1993 City rates

- (a) 3.5 per cent of the rates of taxation for general purposes in the merged area of the Town of Clearwater in 1992; and
- (b) the rate of inflation for the calendar year of 1992, as determined by the Consumer Price Index published by Statistics Canada.

Rates,  
subsequent  
years

(4) In 1994, 1995, 1996, 1997, 1998, 1999 and 2000, the council of the City shall, in the manner prescribed by the Minister, levy on the whole of the assessment for real property and business assessment according to the last returned assessment roll pertaining to the merged area of the Town of Clearwater rates of taxation for general purposes which are different from the rates which would have been levied for such purposes but for this subsection.

Where taxes  
reduced

(5) If the Minister has made an order under this section which results in a reduction in the taxes which would have otherwise been levied in any year, the amount of the reduction shall be charged to the general funds of the City in that year.

Adjustments  
of grant total

R.S.O. 1980,  
c. 359

**76.**—(1) The Minister may by order on such conditions as the Minister considers appropriate provide for payments to be made to the City so that in each of the years 1991, 1992 and 1993 the total of all grants received by the City under the *Ontario Unconditional Grants Act* pertaining to the merged area of the Town of Clearwater and payments under this subsection is not less than the total of all grants received by the Town of Clearwater under the *Ontario Unconditional Grants Act* in 1990.

Minister's  
order

(2) The Minister may by order before the 1st day of January, 2000, on such conditions as the Minister considers appropriate, make grants or loans to the County and the local municipalities to achieve the purposes of this Act.

Appropri-  
ations

**77.** The money required for the purposes of this Act shall be paid out of the money appropriated therefor by the Legislature.

Adjustments  
of grants  
under  
R.S.O. 1980,  
c. 359

**78.**—(1) A grant under the *Ontario Unconditional Grants Act* to the County or a local municipality in any year in which an incorporation, a major boundary change or a major change in responsibility for the delivery of any service took place during that year shall be revised to reflect the incorporation, the boundary change or the change in the delivery of services.



(2) If, in any year, there is an overpayment or underpayment of grants paid to the County or a local municipality as a result of a revision under subsection (1), the Minister shall adjust any grant paid to the County or a local municipality in the immediately following year by the amount of the overpayment or underpayment.

Adjustment  
of grants by  
Minister

**79.—(1)** In this section,

Definitions

“urban service” means a service of the City not being provided generally throughout the City or not benefiting lands in the City equally, and includes any liability incurred by a former municipality with respect to such service;

“urban service area” means the area or rateable property, including the business assessment thereon, designated in a by-law under clause (2) (c) or in an order under clause (5) (c).

(2) The council of the City may, with the approval of the Municipal Board, by by-law,

By-laws  
respecting  
urban  
services

- (a) identify an urban service;
- (b) define which costs of the City are related to that urban service;
- (c) designate upon what area or rateable property, including the business assessment thereon, of the City the related costs should be raised; and
- (d) levy a special rate on that area or rateable property, including the business assessment thereon, to raise the whole or part of the related costs.

(3) The rates to be levied within each urban service area shall be determined in accordance with subsection 7 (3) of the *Ontario Unconditional Grants Act*.

Determi-  
nation of  
rates  
R.S.O. 1980,  
c. 359

(4) The council of the City may establish, amend or dissolve any number of urban service areas designated under subsection (2).

Dissolution  
of urban  
service areas

(5) Before the 1st day of January, 1991, the Minister, upon the joint application of the councils of the City of Sarnia and the Town of Clearwater, may make an order to be effective no earlier than the 1st day of January, 1991, that,

Minister's  
order

- (a) identifies an urban service;



- (b) defines which costs of the City will relate to that urban service; and
- (c) designates upon what area or rateable property, including business assessment thereon, of the City the related costs shall be raised.

Where  
O.M.B.  
approval not  
required

(6) Where an order under subsection (5) creating an urban service area is in force and has not been amended under subsection (7), the council of the City may pass a by-law under clause (2) (d) related to that urban service area without the approval of the Municipal Board.

Amendments  
or repeal of  
order by City

(7) The council of the City may, with the approval of the Municipal Board, by by-law amend or repeal an order under subsection (5).

### PART XIII

#### MISCELLANEOUS

Board of  
arbitrators

**80.**—(1) The Minister shall appoint three persons as a board of arbitrators to make adjustments of assets and liabilities arising from any amalgamation, dissolution, other than the dissolution of a police village, and transfer of functions or services under Parts I, II, V, VIII, IX, X, XI and this Part.

Certain  
provisions of  
R.S.O. 1980,  
c. 25 apply

(2) Sections 3 to 5, 7, 9 to 11 and 13 to 15 of the *Arbitrations Act* and the Schedule to that Act apply to an arbitration under this section.

Decisions of  
board  
binding

(3) The decisions of the board of arbitrators are binding on the County, local municipalities and local boards and are not subject to appeal.

Hearing

(4) The board of arbitrators shall hold a hearing with respect to any matter set out in subsection (1) that is in dispute.

Industrial  
sites  
R.S.O. 1980,  
c. 302

**81.** Paragraph 50 of section 210 of the *Municipal Act* applies with necessary modifications to the County.

By-laws  
respecting  
emergency  
measures

**82.**—(1) If there is a conflict between a by-law passed by County Council under subclause 209 (b) (ii) or (iii) of the *Municipal Act* and a by-law passed by the council of a local municipality under those subclauses, the by-law of County Council prevails to the extent of the conflict.

(2) When a by-law passed by County Council under sub-clause 209 (b) (ii) of the *Municipal Act* is in force, the County may pass by-laws, Idem  
R.S.O. 1980,  
c. 302

- (a) with the consent of the local municipality or local board concerned, for appointing heads of departments and alternates to be members of or advisors to the emergency measures planning committee or any subcommittee thereof;
- (b) with the consent of the local municipality or local board concerned, for training employees of the local municipality or local board in their emergency functions;
- (c) for appointing members of the emergency measures planning committee or of any subcommittee thereof to be in charge of the departments or utilities throughout the County, as provided in the by-law, when an emergency occurs;
- (d) for acquiring alternative headquarters for the County Government outside the County; and
- (e) for obtaining and distributing emergency materials, equipment and supplies.

(3) The County shall be deemed to be a regional municipality and the local municipalities shall be deemed to be area municipalities of that regional municipality for the purposes of the *Emergency Plans Act, 1983*. Deeming  
provision  
respecting  
1983, c. 30

**83.** The County Council, before the 31st day of December, 1992, shall prepare, adopt and forward to the Minister for approval an amendment to the official plan of the County to cover the area of the former municipality of The Corporation of the City of Sarnia. Amendment  
to official  
plan

**84.—**(1) The County Council shall not request an amendment to this Act unless, Double  
majority vote

- (a) a majority of all the votes on County Council are cast in favour of the request; and
- (b) members of County Council representing a majority of the local municipalities cast their votes in favour of the request.

(2) For the purposes of clause (1) (b), subsection 41 (4) applies with necessary modifications. Idem

Regulations  
respecting  
employees

**85.**—(1) The Lieutenant Governor in Council may, upon the recommendation of the Minister, make regulations providing for the security of employment, the protection of benefits, including seniority and pensions, and early retirement options for employees affected by this Act.

Limitation

(2) Subsection (1) does not apply to employees affected by a by-law passed or repealed under Part VII.

Repeal of  
ss. 4 and 18

**86.** Sections 4 and 18 of this Act are repealed on the 1st day of December, 1991.

Repeals

**87.** *The City of Sarnia Act, 1925*, being chapter 103, *The City of Sarnia Act, 1977*, being chapter 101 and the *County of Lambton Act, 1981*, being chapter 92, are repealed on the 1st day of January, 1991.

Commence-  
ment

**88.**—(1) This Act, except sections 5, 6, 7, 13, 19, 20 and 21, Parts IX and X and section 87, comes into force on the day it receives Royal Assent.

Idem

(2) Sections 5 and 13, Parts IX and X and section 87 come into force on the 1st day of January, 1991.

Idem

(3) Sections 6, 7, 19, 20 and 21 come into force on the 1st day of December, 1991.

Transition,  
regular  
elections  
R.S.O. 1980,  
c. 308

(4) Despite subsection (3), the regular elections to be held in 1991 under the *Municipal Elections Act* in the area municipalities shall be conducted as if sections 6, 7 and 19 were in force.

Short title

**89.** The short title of this Act is the *Sarnia-Lambton Act, 1989*.

## SCHEDULE

### WARD 1

Beginning at the intersection of the southerly boundary of the Town of Clearwater and the centre line of the Blackwell Sideroad;

Thence northerly along the centre line of the Blackwell Sideroad and the northerly prolongation thereof to a point distant 500 metres measured northerly from the southerly high water mark of Lake Huron;

Thence easterly and parallel with the southerly high water mark of the said Lake to the easterly boundary of the Town of Clearwater;

Thence southerly along the easterly boundary of the said Town to the south easterly angle of the said Town;

Thence westerly along the southerly boundary of the said Town to the place of beginning.

## WARD 2

Beginning at the intersection of the centre line of the King's Highway No. 402 and the centre line of the Blackwell Sideroad;

Thence northerly along the centre line of Blackwell Sideroad and the northerly prolongation thereof to a point distant 500 metres measured northerly from the southerly high water mark of Lake Huron;

Thence westerly and parallel with the southerly high water mark of the said Lake to the International Boundary between the Province of Ontario and the United States of America;

Thence southerly along the said International Boundary to the northerly boundary of the Village of Point Edward;

Thence easterly and southerly along the northerly and easterly boundaries of the said Village to the centre line of Michigan Avenue;

Thence easterly along the centre line of Michigan Avenue to the centre line of Indian Road North;

Thence southerly along the centre line of Indian Road North to the centre line of the King's Highway No. 402;

Thence easterly along the centre line of the said King's Highway to the place of beginning.

## WARD 3

Beginning at the intersection of the westerly boundary of the City of Sarnia and the centre line of Michigan Avenue;

Thence easterly along the centre line of Michigan Avenue to the centre line of Indian Road North;

Thence southerly along the centre line of Indian Road North to the centre line of the King's Highway No. 402;

Thence easterly along the centre line of the said King's Highway to the centre line of the Blackwell Sideroad;

Thence southerly along the centre line of the Blackwell Sideroad to the northerly limit of Concession V of the former Township of Sarnia;

Thence westerly along the northerly limit of the said Concession to the easterly limit of the King's Highway No. 40;

Thence westerly to and along the centre line of Wellington Street to the centre line of Indian Road South;

Thence northerly along the centre line of Indian Road South to the centre line of London Road;

Thence westerly along the centre line of London Road and the westerly prolongation thereof to the International Boundary between the Province of Ontario and the United States of America;



Thence northerly along the said International Boundary to the southerly boundary of the Village of Point Edward;

Thence easterly and northerly following the boundaries between the Village of Point Edward and the City of Sarnia to the place of beginning.

#### WARD 4

Beginning at the intersection of the southerly boundary of the Town of Clearwater and the centre line of the Blackwell Sideroad;

Thence northerly along the centre line of the Blackwell Sideroad to the northerly limit of Concession V of the former Township of Sarnia;

Thence westerly along the northerly limit of the said Concession to the easterly limit of the King's Highway No. 40;

Thence westerly to and along the centre line of Wellington Street to the centre line of Indian Road South;

Thence northerly along the centre line of Indian Road South to the centre line of London Road;

Thence westerly along the centre line of London Road and the westerly prolongation thereof to the International Boundary between the Province of Ontario and the United States of America;

Thence southerly along the said International Boundary to the southerly boundary of the City of Sarnia;

Thence easterly along the southerly boundary of the City of Sarnia and the Town of Clearwater to the place of beginning.





# Bill 36

## **An Act to revise the Public Service Superannuation Act**

The Hon. M. Elston

*Chairman of the Management Board of Cabinet*

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*1st Reading*      June 20th, 1989  
*2nd Reading*  
*3rd Reading*  
*Royal Assent*

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## EXPLANATORY NOTES

The Bill will continue the existing pension plan established under the *Public Service Superannuation Act* (which contains the basic pension plan) and the *Superannuation Adjustment Benefits Act* (which requires inflation adjustments for benefits payable under the basic plan).

Changes will be made respecting who is eligible to become a member of the plan, the level of contributions required under the plan and certain rules governing pension transfers and the purchase of credit under the plan. Certain provisions of the pension plan (concerning entitlement to benefits and the administration of the plan) will be changed to meet the requirements of the *Pension Benefits Act, 1987*. Additional technical changes are made with respect to the administration of the plan.

Three alternative mechanisms for amending the plan will be provided. Initially, the Lieutenant Governor in Council will be able to amend the plan by order. The Bill will permit the Government to enter into an agreement with the members to establish joint control or member control over the plan. Amendments to the plan will then be made according to the terms of the agreement. Ownership of surplus and responsibility for deficits that may arise under the plan will be concomitant with control over the plan.

A Public Service Pension Board will be created to administer the plan and the pension fund. Custody of the pension fund will be transferred from the Treasurer to the Board. The Treasurer will be responsible for paying any deficit that may exist when the pension fund is transferred to the Board.

The Bill is structured as an Act with two Schedules. The Act contains the particulars of the continuation of the pension plan (sections 3 to 5), the amending mechanisms (section 6), the transfer of the pension fund from the Treasurer to the Board (sections 7 to 11) and transitional provisions (sections 12 to 14). Schedule 1 contains the details of the pension plan (sections 1 to 28) and establishes the Board (sections 29 to 38). Schedule 2 lists the amount of the Treasurer's special monthly payments to liquidate the unfunded liability of the plan as it exists when custody of the pension fund is transferred to the Board.

### *Changes to the pension plan:*

The following are the key changes in the terms of the pension plan:

1. Substantive changes, other than those required by the *Pension Benefits Act, 1987*, include:
  - (a) Contract employees and unclassified part-time employees, who are not eligible to become members of the existing pension plan, have the option of joining the plan. (*Section 2 of Schedule 1*)
  - (b) The rate of a member's required contributions increases by 1 per cent of the member's salary. This increase is matched by an increase in the employer's contributions. (*Section 6 of Schedule 1*)
  - (c) The rules governing the purchase of credit for past service are simplified and the purchase of credit for certain service in the private sector is permitted. (*Section 11 of Schedule 1*)
  - (d) A pensioner who marries after retirement may elect to provide a survivor pension for a spouse, with a corresponding reduction in the amount of the member's pension. (*Section 21 of Schedule 1*)
2. Changes required by the *Pension Benefits Act, 1987* include:

- (a) A person's entitlement to a pension relating to employment after December 31, 1986 vests and his or her contributions are locked in after two years of continuous membership in the plan. (*Section 13 of Schedule 1*)
- (b) The "50 per cent rule" applies, ensuring that a member's contributions under the plan plus interest do not exceed 50 per cent of the commuted value of the pension the member receives for employment since January 1, 1987. (*Section 13 of Schedule 1*)
- (c) The amount of a spouse's survivor pension is increased from 50 per cent to 60 per cent of the member's pension, with a corresponding reduction in the amount of the member's pension. (The member and spouse can waive the increase.) (*Section 19 of Schedule 1*)
- (d) A spouse or beneficiary or the estate of a member entitled to a pension, who dies before beginning to receive it, is entitled to a benefit based on the member's employment after December 31, 1986. (*Section 22 of Schedule 1*)



Bill 36

1989

## An Act to revise the Public Service Superannuation Act

### CONTENTS OF ACT

Section	Section
1. Definitions	11. Subsequent valuations
2. Application	12. Payment of pensions under other Acts
3. Plan continued	13. Expiry of appointments
4. Plan documents	14. Continued application
5. Public Service Superannuation Fund continued	15. <i>Superannuation Adjustment Benefits Act</i> ceases to apply
6. Future revision of Plan	16. <i>Public Service Superannuation Act</i> repealed
7. Transfer of SAF Account	17. Commencement
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### CONTENTS OF SCHEDULE 1

Section	Section
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2. Plan members	21. Post-retirement marriage
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4. Persons not entitled to be members	23. Survivor pension for pre-1987 credit
5. Contributions to and payments from Fund	24. Inflation adjustment
6. Contributions by members	25. Pre-retirement part-time employment
7. Contributions by employer	26. Re-employment of pensioner
8. Leave of absence with pay	27. Void transactions
9. Continued membership on release from employment	28. Payment to estate
10. Long term income protection	29. Board to be corporation
11. Prior service with the Crown, etc.	30. Remuneration
12. Contribution, salary and service record	31. Duty of Board
13. Refunds before twenty-four months membership	32. Powers of Board
14. Disability pension	33. Committees
15. Pension at age sixty-five	34. Quorum
16. Deferred pension	35. Expenses
17. Computation of pension	36. Annual report
18. Application for pension	37. Report re O.P.P. early retirement benefit
19. Pension to surviving spouse	38. Indemnification



## CONTENTS OF SCHEDULE 2

## Interim payments of unfunded liability

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

## Definitions

**1.** In this Act, “actuary”, “Board”, “Crown”, “Fund”, “member”, “Minister”, “pension”, “pension benefit”, “Plan”, “salary” and “Treasurer” have the same meaning as in section 1 of Schedule 1.

## Application

**2.** Subject to subsection 14 (2), this Act applies to every person employed in the service of the Crown after the 31st day of December, 1989.

Plan  
continued  
R.S.O. 1980,  
cc. 419, 490

**3.** The pension plan contained in the provisions of the *Public Service Superannuation Act* and the regulations thereunder, including the benefits provided under the *Superannuation Adjustment Benefits Act* in relation to pensions provided under the *Public Service Superannuation Act*, is continued as the Public Service Pension Plan as revised by this Act and set out in Schedule 1.

Plan  
documents

**4.** The terms of the Plan are those set out in Schedule 1, in this Act and in such other documents concerning the Plan as are created under this Act or Schedule 1.

Public  
Service  
Superan-  
nuation Fund  
continued

**5.—(1)** The Public Service Superannuation Fund established under the *Public Service Superannuation Act* is continued as the Public Service Pension Fund to provide benefits in respect of the Plan.

Board to  
administer

**(2)** The Plan and the Fund shall be administered by the Board in accordance with this Act and the Plan.

Future  
revision of  
Plan

**6.—(1)** The Lieutenant Governor in Council by order may amend the Plan and, without restricting the generality of the foregoing, may,

- (a) determine the methods or assumptions to be used to calculate any pension benefit provided under the Plan;
- (b) rescind the Plan and replace it with another pension plan;
- (c) extend, modify or restrict the conditions upon which persons may become members of the Plan;

- (d) establish a separate pension plan or plans for any class or classes of persons who are members of the Plan, and direct the transfer from the Fund to any fund related to such separately established pension plan or plans of any amount specified to represent the value, as determined by an actuarial valuation, of the pension benefits of persons who will be members of such separately established pension plan or plans;
- (e) increase or prospectively reduce, eliminate or modify any pension benefit set out in the Plan or the rate or amount of contribution to be made under the Plan;
- (f) regulate the administration of the Plan and the composition, duties and powers of the Board;
- (g) exercise with respect to any plan established under this section the powers conferred by this section.

(2) To the extent that an amendment of the Plan made under subsection (1) conflicts with the *Pension Benefits Act, 1987* in a matter in which the conflict is not authorized by this Act or Schedule 1, the amendment is void.

Limitation re  
amendment  
1987, c. 35

(3) If the Crown enters into an agreement for an indefinite term with representatives of a majority of the members with respect to,

Agreement  
for joint  
responsibility

- (a) the joint management of the Plan and the Fund by the Crown and representatives of the members;
- (b) the sharing between the Crown and the members of surpluses and deficiencies in the Fund;
- (c) prior consultation between the Crown and the representatives to determine if agreement can be reached between them concerning any change in benefits under the Plan or in the rate or amount of contributions to the Fund from the Crown or the members; and
- (d) mediation procedures following a failure to agree on a change in benefits under the Plan or in the rate or amount of contributions to the Fund,

the powers mentioned in subsection (1) shall, while the agreement remains in force, be exercised only in accordance with the agreement.

Idem

(4) An agreement mentioned in subsection (3) may also provide that, to the extent specified in the agreement, subsections 11 (2) and (5) cease to apply while the agreement is in force.

Agreement  
for member  
responsibility

(5) If it is agreed between the Crown and representatives of a majority of members that the management of the Plan, the entitlement to surpluses in the Fund and the liability for deficiencies in the Fund will be permanently assumed by the members from time to time of the Plan and that the liability of the Crown to contribute to the Fund will be limited to a specified amount or to a specified percentage of members' contributions or salaries, the Lieutenant Governor in Council may provide by order that the powers mentioned in subsection (1) shall be exercised thereafter only in accordance with the agreement and by the person, persons or entity specified in the agreement.

Application  
of  
R.S.O. 1980,  
c. 446

(6) The *Regulations Act* does not apply with respect to an order amending the Plan.

Transfer of  
SAF Account

7.—(1) As of the 31st day of December, 1989, the Treasurer shall transfer to the Public Service Superannuation Fund Account maintained in the Consolidated Revenue Fund under the *Public Service Superannuation Act* the total assets and liabilities of the Public Service Superannuation Fund Account in the Superannuation Adjustment Fund Account maintained in the Consolidated Revenue Fund under the *Superannuation Adjustment Benefits Act*.

Transfer of  
O.P.P.  
Supple-  
mentary  
Benefits  
Account

(2) As of the 31st day of December, 1989, the Treasurer shall transfer to the Public Service Superannuation Fund Account maintained in the Consolidated Revenue Fund under the *Public Service Superannuation Act* the total assets and liabilities of the Ontario Provincial Police Supplementary Benefits Account maintained in the Consolidated Revenue Fund under Order in Council 196/85.

Interest

(3) As of the 31st day of December, 1989, the Treasurer shall pay to the Public Service Superannuation Fund Account maintained in the Consolidated Revenue Fund under the *Public Service Superannuation Act* interest at the rates and on the terms determined by the Lieutenant Governor in Council on the cash balances that from time to time stood to the credit of,

(a) the Public Service Superannuation Fund Account maintained in the Consolidated Revenue Fund under the *Public Service Superannuation Act*;

R.S.O. 1980,  
c. 419



- (b) the Public Service Superannuation Fund Account in the Superannuation Adjustment Fund Account maintained in the Consolidated Revenue Fund under the *Superannuation Adjustment Benefits Act*; and

R.S.O. 1980,  
c. 490

- (c) the Ontario Provincial Police Supplementary Benefits Account mentioned in subsection (2),

in the period from the 1st day of April, 1989 to the 31st day of December, 1989.

- (4) Interest payable by the Treasurer on assets held on the 1st day of April, 1989 in the accounts referred to in clauses (3) (a), (b) and (c) shall be accrued to the 31st day of December, 1989 and paid as of that date to the Public Service Superannuation Fund Account despite a later time for payment specified in any instrument that provides for payment of the interest, and the payment made to the Account reduces the liability of the Treasurer under the instrument for interest by the amount paid.

Idem

- (5) Payments by the Treasurer made under subsections (3) and (4) shall be made from the Consolidated Revenue Fund.

Idem

- (6) As of the 1st day of January, 1990, the Treasurer shall transfer to the custody and control of the Board the total amount of the assets on the 31st day of December, 1989 of the Public Service Superannuation Fund Account maintained in the Consolidated Revenue Fund under the *Public Service Superannuation Act*, including assets and payments transferred or made to that account under this section, by issuing to the Board debentures of the Province of Ontario that are equal to the amount of the assets and that, in the opinion of the Treasurer, provide for the payment of principal and interest on terms substantially equivalent to those on which the assets are held on the 31st day of December, 1989.

Transfer of  
PSSF  
Account

R.S.O. 1980,  
c. 419

- (7) All liabilities on the 1st day of January, 1990 of the accounts mentioned in subsections (1), (2) and (6) are liabilities of the Fund on and after that date and, as of that date, the accounts cease to exist in the Consolidated Revenue Fund.

Liabilities  
transferred to  
Fund

- (8) During the period from the 31st day of December, 1989 to the 30th day of June, 1990, the Treasurer may establish outside the Consolidated Revenue Fund an account or accounts for such temporary period as the Treasurer considers advisable to facilitate the orderly transfer to the Board of the assets of the Fund and the administration of the Plan.

Temporary  
account  
authorized



## Debentures

(9) For the purpose of subsection (6), the Treasurer may, on behalf of Ontario, issue to the Fund debentures of Ontario in such amounts, upon such terms as to the payment of principal and interest, maturing at such time or times and either with or without the privilege of prepayment of the whole or any part of the principal amount of any such debenture as will, in the opinion of the Treasurer, meet the requirements of this section, and any debenture may provide that it is not assignable or transferrable.

Investments  
authorized  
1987, c. 35

(10) Despite the *Pension Benefits Act, 1987* and regulations thereunder, the receipt and holding by the Board of debentures issued under this section shall not be considered imprudent or unreasonable or contrary to that Act and regulations thereunder, and the nature, amount and terms of the debentures may be taken into account by the Board and any committee of the Board in determining future investments of the assets of the Plan.

Application  
of  
1987, c. 35

(11) Section 82 of the *Pension Benefits Act, 1987* does not apply to the transfers described in this section.

Initial  
unfunded  
liability

**8.—(1)** In this section and in sections 9 and 10 and subsection 11 (3),

“actuarial gain” and “actuarial loss” mean, respectively, the sum, if positive, or the sum, if negative, of,

- (a) the gain to the Plan during the period since the review date of the immediately preceding going concern valuation resulting from the difference between actual experience and the experience expected by the actuarial assumptions on which that valuation was based,
- (b) the amount by which the going concern liabilities decrease as a result of an amendment to the Plan, and
- (c) the amount by which the going concern liabilities decrease or the going concern assets increase as a result of a change in actuarial methods or assumptions upon which the current going concern valuation is based, as of the review date for a going concern valuation,

but clause (a), (b) or (c) or any combination thereof shall be counted as a negative in the calculation of the sum if,

- (d) the experience of the Plan results in a loss rather than a gain,
- (e) an amendment increases the going concern liabilities, or
- (f) a change in actuarial methods or assumptions results in an increase in going concern liabilities or a decrease in going concern assets, as the case may be;

“going concern assets” means the value of the assets of the Plan, including accrued and receivable income and the present value of future contributions and investment income, determined on the basis of a going concern valuation;

“going concern liabilities” means the present value of the expenses of the Plan and the accrued and unaccrued benefits of the Plan determined on the basis of a going concern valuation;

“going concern unfunded actuarial liability” means the excess of going concern liabilities over going concern assets;

“going concern valuation” means a valuation of assets and liabilities of the Plan using methods and actuarial assumptions considered by the actuary who valued the Plan to be in accordance with generally accepted actuarial principles and practices for the valuation of a continuing pension plan;

“initial valuation” means the going concern valuation of the Plan as at the 1st day of January, 1990 required by section 10;

“past service unfunded actuarial liability” means the amount of going concern unfunded actuarial liability that results from the provision of benefits with respect to prior employment for which no benefit was provided at the time of the employment or from an amendment to the Plan that provides benefits for employment prior to the date of the amendment if the employment had not previously been recognized for purposes of the provision of pension benefits;

“review date” means the last date of the period under review in a report required under the *Pension Benefits Act, 1987* or regulations thereunder; 1987, c. 35

“solvency assets” means the sum determined in accordance with subsections (2) and (3) of,

- (a) the market value of investments held by the Plan or a value related to the market value by means of an averaging method that stabilizes short-term fluctuations of the market values over a period of not more than five years, plus any cash balances and accrued or receivable income items established before the 1st day of January, 1988,
- (b) the present value of any special payments required to liquidate any past service unfunded actuarial liability established on or after the 1st day of January, 1988,
- (c) the present value of any special payments other than those referred to in clause (b) established on or after the 1st day of January, 1988 that are scheduled for payment within five years after the review date, and
- (d) the present value of future special payments resulting from the initial valuation;

“solvency deficiency” means the excess of the solvency liabilities over the solvency assets;

“solvency gain” means the sum, if positive, of,

- (a) the gain to the Plan during the period since the review date of the immediately preceding valuation of solvency assets and solvency liabilities resulting from the difference between actual experience and the experience expected by the actuarial assumptions on which that valuation was based, and
- (b) the amount by which the solvency liabilities decrease or the solvency assets increase during the period since the review date of the immediately preceding valuation of solvency assets and solvency liabilities as a result of a change in the actuarial methods or assumptions upon which the current valuation of solvency assets and solvency liabilities is based,

but either of clause (a) or (b) shall be counted as a negative in the calculation of the sum if the experience of the Plan results in a loss rather than a gain or if a change in actuarial methods or assumptions results in an increase in solvency liabilities or a decrease in solvency assets, as the case may be;



“solvency liabilities” means an amount that is not less than the liabilities of the Plan determined as if the Plan had been wound up, taking into account liabilities for the adjustment for inflation under the Plan and the requirements of section 75 of the *Pension Benefits Act, 1987*.

1987, c. 35

(2) The present values referred to in clauses (b), (c) and (d) of the definition of “solvency assets” shall be determined on the basis of the assumed interest rate used in determining whether there is a solvency deficiency.

Present values re solvency assets

(3) In calculating the solvency assets, if there is no market value for an investment of the Plan and the investment is issued or guaranteed by a government, the book value of the investment may be used instead of market value.

If no market value

(4) The provisions of this section and of sections 9, 10 and 11 prevail over any conflicting provisions of the *Pension Benefits Act, 1987* or of a regulation made under that Act.

Conflicting provisions

**9.**—(1) For each month in the period commencing with the 1st day of January, 1990 and ending with the last day of the month in which the initial valuation is approved by the Pension Commission of Ontario, the Treasurer shall pay to the Fund from the Consolidated Revenue Fund the amount shown for that month in Schedule 2.

Interim payments of unfunded liability

(2) The Treasurer may, with the appropriate adjustment for interest, at any time prepay one or more of the outstanding payments shown in Schedule 2.

Prepayment

(3) Payments made under subsection (1) or (2) shall be credited against any special payments that are to be made in the same period to liquidate a going concern unfunded actuarial liability disclosed by the initial valuation, and any amount by which the payments made under those subsections are less than the special payments for that period as a result of the initial valuation shall be paid by the Treasurer to the Fund from the Consolidated Revenue Fund within fifteen months following the month when the initial valuation is approved by the Pension Commission of Ontario.

Application of estimated payments

**10.**—(1) As soon as practicable after the 31st day of December, 1989, the Board shall cause to be prepared a going concern valuation of the Plan as at the 1st day of January, 1990, and the valuation shall include the adjustment of pensions for inflation under the Plan.

Initial valuation

(2) The initial valuation shall,

Idem



- (a) comply with this section and section 11;
- (b) be delivered by the actuary to the Board and to the Minister and the Treasurer, and shall be filed with the Pension Commission of Ontario by the Board only after the Minister and the Treasurer have approved in writing the initial valuation; and
- (c) for all purposes of the Plan determine the going concern unfunded actuarial liability or surplus of the Plan as at the 1st day of January, 1990.

Liability  
liquidated

(3) Any going concern unfunded actuarial liability disclosed by the initial valuation shall be liquidated by a series of special payments from the Consolidated Revenue Fund to be made over the forty years commencing on the 1st day of January, 1990.

Calculation  
of special  
payments

(4) Each special payment mentioned in subsection (3) shall be calculated as a constant percentage of the projected future earnings from employment used to calculate pension benefits during the forty years commencing on the 1st day of January, 1990 of all persons who are members of the Plan on that date and of those who are expected to join the Plan during those forty years.

Present value  
of special  
payments

(5) The present value, as at the 1st day of January, 1990, of the full series of special payments shall equal the amount of the going concern unfunded actuarial liability to be liquidated.

Schedule of  
payments

(6) The actuary shall prepare and submit with the initial valuation a schedule showing the dollar amount of each special payment in the first six years of the series and the formula by which the dollar amount of the remaining special payments in the series is determined.

Prepayments  
and  
additional  
payments

(7) The Treasurer may, at any time, prepay a part or all of any outstanding special payments or may make additional payments to the Fund to be applied, with appropriate adjustments for interest, as the Treasurer shall direct to reduce the going concern unfunded actuarial liability disclosed by the initial valuation, and every such payment may be paid out of the Consolidated Revenue Fund.

Consistent  
assumptions

(8) Subject to subsection (4),

- (a) the projected future earnings from employment used to calculate pension benefits shall be determined using actuarial assumptions consistent with those made in the initial valuation;

- (b) the present value of the series of special payments shall be determined using the interest rate used in the initial valuation; and
- (c) all other actuarial assumptions made in the determination of the series of special payments shall be, so far as possible, consistent with actuarial assumptions made in the initial valuation.

**11.—**(1) A going concern valuation of the Plan made after the initial valuation shall include the present value of the outstanding special payments calculated under section 10 that remain to be made to liquidate the going concern unfunded actuarial liability disclosed by the initial valuation, and the actuary shall prepare and submit with the valuation a schedule showing the amount, determined from the formula mentioned in subsection 10 (6), of each remaining special payment for the next six years or for the period of time for which special payments remain to be made, whichever is shorter.

Subsequent  
valuations

(2) Any actuarial gain disclosed by a going concern valuation made after the initial valuation shall be applied in the following order and manner:

Application  
of actuarial  
gain

1. The amount of the gain shall first be applied to reduce, and to eliminate if possible, the payments required to liquidate any unamortized balance of a solvency deficiency disclosed by the initial valuation or a subsequent valuation.
2. When no solvency deficiency remains, the amount of the gain shall be applied to reduce, and to eliminate if possible, a going concern unfunded actuarial liability disclosed by a valuation after the initial valuation.
3. When no other going concern unfunded actuarial liability remains, the amount of the gain shall be applied to reduce, and to eliminate if possible, the unliquidated amount of the going concern unfunded actuarial liability disclosed by the initial valuation.

(3) In determining any solvency gain or solvency deficiency of the Plan, solvency assets shall include the present value of future special payments resulting from the initial valuation.

Special  
payments a  
solvency  
asset

(4) When the special payments made as a result of the initial valuation, the prepayments and additional payments made under subsection 10 (7), and the actuarial gains applied under paragraph 3 of subsection (2) have liquidated the going con-

When special  
payments  
cease

cern unfunded actuarial liability disclosed by the initial valuation, no further special payments shall be made, notwithstanding that the period of forty years used in the initial valuation has not then expired.

Minister to  
approve  
valuation

(5) No valuation of the Plan after the initial valuation shall be filed by the Board with the Pension Commission of Ontario, unless the valuation has been approved in writing by the Minister.

Payment of  
pensions  
under other  
Acts

R.S.O. 1980,  
cc. 419, 490

**12.** Every allowance, annuity, deferred annuity or other payment under the *Public Service Superannuation Act* or a predecessor Act or under the *Superannuation Adjustment Benefits Act*, including any payment authorized to be made from the Consolidated Revenue Fund, that, before the 1st day of January, 1990, a person is receiving, is entitled to receive, or is entitled to receive with the payment thereof deferred until the year 1990 or later, shall be paid out of the Fund in accordance with the Act under which entitlement to the payment arose.

Expiry of  
appointments

**13.** On the 31st day of December, 1989, the term of appointment of any person under the *Public Service Superannuation Act* as a member of the Public Service Superannuation Board expires.

Continued  
application

**14.—(1)** The *Public Service Superannuation Act*, as it read on the 31st day of December, 1989, continues to apply to the computation or payment of every allowance, annuity, deferred annuity or payment to the payment of which a person has become entitled under that Act prior to that date, and continues to apply in respect of every person who, within the meaning of that Act, has ceased to be a contributor before that date and is entitled to a deferred annuity under that Act.

Exception  
for re-  
employment

(2) A person who is re-employed in the service of the Crown or who becomes a member of the Plan, on or after the 1st day of January, 1990, for a prescribed period of time and in prescribed circumstances, terms or conditions, and who is required by, or entitled under, the Plan to contribute to the Fund in respect of such re-employment, may participate in the Plan to the extent prescribed with respect to the computation or payment of a pension or other payment and subsection (1) does not apply in the circumstances.

Regulations

(3) The Lieutenant Governor in Council may make regulations prescribing a period or periods of time and prescribing circumstances, terms or conditions and the extent of participation in the Plan for the purpose of subsection (2).



**15.** The provisions of the *Superannuation Adjustment Benefits Act* relating to the payment of, or contribution for, adjustment benefits or any other benefit described in that Act in respect of any allowance, annuity, deferred annuity or other payment arising under the *Public Service Superannuation Act* cease to apply on and after the 1st day of January, 1990.

R.S.O. 1980,  
c. 490 ceases  
to apply

R.S.O. 1980,  
c. 419

**16.** The following are repealed on the 1st day of January, 1990: Repeals

1. The *Public Service Superannuation Act*, being chapter 419 of the Revised Statutes of Ontario, 1980.
2. Item 13 of the Schedule to the *Revised Statutes Amendment Act, 1981*, being chapter 66.
3. The *Public Service Superannuation Amendment Act, 1983*, being chapter 44.
4. Section 3 of the *Provincial Judges and Masters Statute Law Amendment Act, 1983*, being chapter 78.
5. The *Public Service Superannuation Amendment Act, 1984*, being chapter 22.
6. Section 74 of the *Family Law Act, 1986*, being chapter 4.
7. The *Public Service Superannuation Amendment Act, 1986*, being chapter 12.
8. Section 60 of the *Equality Rights Statute Law Amendment Act, 1986*, being chapter 64.

**17.** This Act comes into force on the 31st day of December, 1989. Commence-  
ment

**18.** The short title of this Act is the *Public Service Pension Act, 1989*. Short title



## SCHEDULE 1

## PUBLIC SERVICE PENSION PLAN

## Definitions

## 1. In this Schedule,

“actuary” means a Fellow of the Canadian Institute of Actuaries;

“annual salary rate” means the hourly, weekly or other rate at which a person’s salary is paid expressed as an annual salary according to such consistently applied formula as the Board considers appropriate having regard to the hours regularly worked by a full-time employee in the position occupied by the person for whom the annual salary rate is determined or in a comparable position;

“average annual salary” means the average of the member’s annual salary rate in each month of the period of sixty consecutive months of membership in the Plan that produces the highest average, but if the member does not have a period of sixty consecutive months of membership in the Plan, “average annual salary” means the average of the member’s annual salary rate in each month of the member’s longest period of consecutive months of membership in the Plan;

R.S.C. 1985,  
c. C-8

“average year’s maximum pensionable earnings”, with respect to any member, means the average of the Year’s Maximum Pensionable Earnings under the *Canada Pension Plan* for the year in which the member ceases to be a member of the Plan and for each of the two preceding years;

“Board” means the Public Service Pension Board referred to in this Schedule;

1986, c. 4

“child” has the same meaning as in the *Family Law Act, 1986*;

“continuous”, in relation to employment, membership or service, means without regard to periods of temporary suspension of the employment, membership or service, and without regard to periods of lay-off from employment;

“credit”, when used in reference to credit in the Plan, means the total period of time, calculated in years of full-time employment, for which contributions are made to the Fund on behalf of the member or for which a member is employed and for which contributions to the Fund have been made, and where the member’s employment is less than full-time employment, credit shall be given on the basis of the proportion of full-time employment represented by the member’s employment for which contributions are made to the Fund;

“Crown” means the Crown in right of Ontario;

“employer” means the Crown and an agency, board, commission, foundation or organization designated by order of the Lieutenant Governor in Council as an employer for the purpose of the Plan;

“former member” means a person who has ceased to hold a position, office or designation that entitles the person to be a member of the Plan, and who,

(a) is entitled, either immediately or at a future time, to payment of a pension under the Plan, or

(b) is entitled to receive any other payment under the Plan;

"Fund" means the Public Service Pension Fund;

"member" means a person,

- (a) who is required to join the Plan,
- (b) who is designated for the purpose of section 9 of the Plan, or
- (c) who is not required to join the Plan, but is entitled to join the Plan and has elected to do so,

but does not include a former member;

"Minister" means the Chairman of the Management Board of Cabinet;

"pension" means a pension benefit that is being paid to a person under the Plan;

"pension benefit" means the aggregate monthly, annual or other periodic amounts, if any, to which a member will become entitled under the Plan on or after ceasing to be a member or to which any other person will become entitled under the Plan upon the death of a member or former member;

"Plan" means the Public Service Pension Plan set out in this Schedule;

"salary", in relation to a member, means the amount of money payable to a member and computed by reference to the hours, days, weeks or other specific periods of time for which the member is employed, but does not include overtime pay or any payment to the member in lieu of a benefit provided by the employer or any payment determined by the Board not to be part of a member's salary;

"spouse" means either of a man and woman who,

- (a) are married to each other, or
- (b) are not married to each other and are living together in a conjugal relationship,
  - (i) continuously for a period of not less than three years, or
  - (ii) in a relationship of some permanence, if they are the natural or adoptive parents, as defined in the *Family Law Act*, 1986, c. 4 1986, of a child;

"Treasurer" means the Treasurer of Ontario and Minister of Economics.

2.—(1) The following persons and classes of persons who have not attained sixty-five years of age are members of the Plan:

1. Persons who are civil servants within the meaning of the *Public Service Act*. Plan members  
R.S.O. 1980,  
c. 418
2. Employees of any agency, board, commission, foundation or organization that is established under an Act of the Legislature and that is designated by order of the Lieutenant Governor in Council as one whose employees are required to be members of the Plan.
3. Persons employed in the Office of the Provincial Auditor.

- R.S.O. 1980,  
c. 419
4. Persons required by any Act of the Legislature to be members of this Plan or the pension plan established by the *Public Service Superannuation Act* or a predecessor Act.
5. Any person employed in a capacity or position that is designated by order of the Lieutenant Governor in Council as requiring the employee to be a member of the Plan.
- Elective membership
- (2) Persons to whom subsection (1) does not apply and who are employed,
- R.S.O. 1980,  
c. 418
- (a) by the Crown under the *Public Service Act*;
- (b) by an agency, board, commission, foundation or organization designated by order of the Lieutenant Governor in Council as one whose employees may be members of the Plan; or
- (c) by an agency, board, commission, foundation or organization the permanent and full-time probationary staff of which are by any Act required to be members of the Plan,
- are entitled to be members of the Plan upon filing with the Board a written election to be a member, and after fulfilling any conditions specified in the order mentioned in clause (b).
- Idem
- (3) A person appointed by the Lieutenant Governor in Council to membership on an agency, board, commission, foundation or organization is, when the appointment so permits or the position has been designated by the Lieutenant Governor in Council for the purpose of this subsection, entitled to be a member of the Plan upon filing with the Board a written election to be a member, and after fulfilling any conditions specified in the appointment or designation.
- Termination of membership
3. A member ceases to be a member of the Plan upon termination by death or otherwise of the employment, office or circumstances that required or entitled him or her to be a member of the Plan or upon attaining the maximum age for contributors to a pension fund or plan specified under the provisions of the *Income Tax Act* (Canada) and regulations made thereunder for the registration under that Act of a pension fund or plan.
- R.S.C. 1952,  
c. 148
- Persons not entitled to be members
4. A person is not entitled to be a member of the Plan if the person,
- R.S.C. 1985,  
c. C-8
- (a) is a member of, or a contributor to, a pension plan to which the Crown contributes other than this Plan or the *Canada Pension Plan*; or
- (b) has attained the maximum age for contributors to a pension fund or plan specified under the provisions of the *Income Tax Act* (Canada) and regulations made thereunder for the registration under that Act of a pension fund or plan.
- Contributions to and payments from Fund
- 5.—(1) Subject to section 7, contributions required to be made under this Plan by the Crown or by any member, including interest required to be paid to the Fund, shall be paid into the Fund, and any payment required by the Plan to be made to any person shall be made out of the Fund, and all moneys not required to be paid out shall be invested to meet the obligations and liabilities of the Plan.
- Fiscal year
- (2) The fiscal year of the Plan is the twelve-month period commencing on the 1st day of January in each year.



- 6.—(1) Subject to subsection (5), every member shall contribute to the Fund from the salary paid to the member for the calendar year, Contributions by members
- (a) 8 per cent of the amount of salary that does not exceed the Year's Basic Exemption as prescribed by the *Canada Pension Plan*; R.S.C. 1985, c. C-8
  - (b) 6.2 per cent of the amount of salary that exceeds the Year's Basic Exemption and does not exceed the Year's Maximum Pensionable Earnings as prescribed by the *Canada Pension Plan*; and
  - (c) 8 per cent of the amount of salary in excess of the Year's Maximum Pensionable Earnings as prescribed by the *Canada Pension Plan*.
- (2) In addition to the contribution required by subsection (1), every member employed in the Ontario Provincial Police Force shall contribute to the Fund an amount equal to 2 per cent of the salary paid to him or her for the calendar year. Additional contribution
- (3) The contributions to be made by a member to the Fund shall be deducted from the member's salary by the person who pays the member's salary, and shall be paid to the credit of the Fund within fifteen days from the date the contribution was deducted or within such longer time as the Board authorizes in writing. Deduction of contributions
- (4) A member shall be given credit in the Plan for the time in respect of which contributions to the Fund are made by or on behalf of the member. Credit for contributions
- (5) A member may cease to contribute to the Fund on or after attaining sixty-five years of age. When no contribution required
- (6) Interest calculated as determined by the Board shall be credited to each member in each year of the Plan on the amount of contributions, including interest previously credited to the member, standing to the member's credit in the Fund. Interest
- 7.—(1) Unless otherwise expressly stated in the Plan, for each month the employer shall pay into the Fund an amount equal to the amount of contributions paid into the Fund by or on behalf of members in that month. Contributions by employer
- (2) If the salary of members who are contributing to the Fund is paid by a board, commission, foundation, agency, branch or division that has a special fund or appropriation designated or granted by the Lieutenant Governor in Council or the Assembly for the payment of the employer's contributions under the Plan, contributions required to be made by the employer shall be made from that fund or appropriation in accordance with such formula as may be determined by the Minister for the purpose. Special funds
- (3) Any amount in the Fund that is indicated by an actuarial valuation for the purpose of the Plan to be surplus to the requirements of the Plan while it continues in existence may, at the direction of the Minister, be applied to the payment of the contributions to be made by the employer under subsection (1) for so long as there is no going concern unfunded actuarial liability or solvency deficiency, as defined in subsection 8 (1) of this Act, in the Plan. Surplus may reduce employer contributions
- (4) Any amount in the Fund that is indicated by an actuarial valuation for the purpose of the Plan to be surplus to the requirements of the Plan while it continues in existence or upon its wind up may, to the extent permitted by the *Pension Benefits Act, 1987*, be withdrawn by the employer from the Fund. Surplus 1987, c. 35



Deficiency	(5) If in any year the amount of cash and assets capable of sale in the Fund is insufficient to meet the payments out of the Fund in the year after the sale of the assets capable of sale, the Treasurer shall pay from the Consolidated Revenue Fund an amount sufficient to make up the deficiency.
Limitation	(6) Subsection (5) ceases to apply if an agreement mentioned in subsection 6 (5) of this Act is in force.
Unfunded liabilities	(7) Subject to this Act, the employer shall pay into the Fund the amount indicated in an actuarial valuation to be required to meet any unfunded liabilities of the Plan.
Leave of absence with pay	8.—(1) If a member has been granted a leave of absence from employment and continues to receive a part or all of his or her salary during the leave, the member shall make the contributions required by section 6.
Leave of absence without pay	(2) If a member is granted a leave of absence from employment and receives no salary during the leave, no credit shall be given to the member in the Plan for the period of the leave of absence unless the member contributes to the Fund in accordance with section 11.
Continued membership on release from employment	9.—(1) A member who is released from employment and who is designated by the Lieutenant Governor in Council for the purpose of this section continues to be entitled to contribute to the Fund in accordance with this section until the end of the month in which the member becomes eligible for a pension under section 15, or until the expiration of five years from the member's release from employment, whichever first occurs.
Contributions	(2) Contributions by or on behalf of a member mentioned in subsection (1) shall be made on the basis of the member's annual salary rate immediately before the member was released from employment.
Long term income protection R.S.O. 1980, c. 418	10.—(1) In this section, "long term income protection plan" means the Long Term Income Protection Plan from time to time applicable to members who are public servants, as defined in the <i>Public Service Act</i> , to mitigate the loss of income resulting from a lengthy disability, and includes any plan that applies to members who are not public servants if the Board considers the plan to be substantially similar to the Long Term Income Protection Plan applicable to public servants.
Contribution on behalf of disabled member	(2) If a member qualifies for a benefit under a long term income protection plan as a result of a disability incurred on or after the 1st day of July, 1974, the employer that employed the member on the date when the member qualified for the benefit shall, subject to subsection (6), contribute to the Fund on behalf of the member the amounts set out in subsections (3), (4) and (5) while the member continues to qualify for the benefit.
Amount	(3) Subject to subsection (4), the contributions mentioned in subsection (2) shall be calculated in accordance with section 6 and paid on the annual salary rate of the member immediately before the disability was incurred in respect of which he or she qualifies for a benefit.
Part-time employment	(4) If the member mentioned in subsection (2) was, in the opinion of the Board, employed on a part-time basis in the month before the disability was incurred, the contributions mentioned in subsection (2) shall be calculated in accordance with section 6 and paid only for that part of each month in which the member continues to qualify for the benefit that is equal to the ratio that, in the twelve months ending on the last day of the month immediately preceding the month when the disability was incurred, the member's part-time employment is of full-time employment in the position occupied by the member or in a comparable position.

(5) The annual salary rate on which contributions under this section are based shall be increased in each year following the year in which the member first qualified for a benefit by the same percentage as would be applicable if the annual salary rate of the member immediately before the cessation of employment as a result of disability were increased in each subsequent year during which the member remains entitled to benefits under the Long Term Income Protection Plan in the same manner as an adjusted pension is increased in each year by the adjustment for inflation under section 24.

Increased  
contribution

(6) Subsections (2), (3), (4) and (5) continue to apply whether or not the member is in receipt of the benefit under the Long Term Income Protection Plan, but those subsections cease to apply when the member ceases to be a member, accrues thirty-five years of credit in the Plan or attains sixty-five years of age, whichever first occurs.

When  
contributions  
cease

(7) A person on whose behalf contributions are made under subsection (2) continues to be a member of the Plan and to accrue credit in the Plan for the time in respect of which contributions are made on his or her behalf under this section.

Continued  
membership

(8) The annual salary rate on which contributions are based under this section shall be included in the computation of the average annual salary of a member on whose behalf contributions are made under this section.

Average  
annual salary

11.—(1) On such terms and conditions as are fixed by the Board, a member may purchase credit in the Plan,

Prior service  
with the  
Crown, etc.

(a) for a period of active service during World War II or the Korean War in His or Her Majesty's naval, army or air forces, in the Canadian or British merchant marine, or in any naval, army or air force that was allied with His or Her Majesty's forces and that is designated by order of the Lieutenant Governor in Council;

(b) for a period of service with the Crown for which the member has no credit in the Plan and no claim for pension benefits from the Plan;

(c) for a period of service with an employer, other than the Crown, that is prior to the member's becoming a member if,

(i) the other employer's plan is or was a pension plan registered under the *Income Tax Act* (Canada), and

R.S.C. 1952,  
c. 148

(ii) the period for which credit was given in the other plan is reduced by the period for which credit is purchased so that credit in the Plan is not given for any part of the period for which credit is retained in the other plan;

(d) for a leave of absence without pay for more than one month for special or educational purposes; or

(e) for a leave of absence without pay for more than one month because of illness, pregnancy or adoption of a child.

(2) To purchase credit referred to in clause (1) (c), a member shall pay to the Fund the amount determined by the Board on the recommendation of the actuary to be equal to the actuarial value of the benefits to which the member will become entitled on obtaining the credit.

Payment

(3) To purchase the credit referred to in clause (1) (b) or (e), a member shall pay to the Fund an amount equal to the product of,

Idem

- (a) the annual salary rate of the member on the date when the member's written application containing all information required by the Board for the purchase of the credit is received by the Board;
- (b) the contribution rates determined under subsection 6 (1); and
- (c) the length in years of the period of prior service for which credit is purchased.

## Idem

(4) To purchase credit referred to in clause (1) (a) or (d), a member shall pay to the Fund an amount equal to the product of,

- (a) the annual salary rate of the member on the date when the member's written application containing all information required by the Board for the purchase of the credit is received by the Board;
- (b) twice the contribution rates determined under subsection 6 (1); and
- (c) the length in years of the period of prior service for which credit is purchased.

## Limitation

(5) Any credit referred to in subsection (1) may be purchased only if application therefor is made to the Board in writing within twenty-four months after the latest of,

- (a) the day on which the member for whom credit is to be purchased became a member of the Plan;
- (b) the last day of the most recent continuous period for which credit is being purchased; and
- (c) the 31st day of December, 1989.

## Transfer agreements

(6) Despite subsections (2) and (3), where the Minister has entered into a written agreement for the transfer to the Plan of credit for a member's service with an employer to whom the Plan does not extend, the member shall pay or cause to be paid into the Fund the amount provided for in the agreement for the purchase of the credit that is being transferred.

## Instalments

(7) If the amount payable by a member to purchase credit under this section exceeds \$500, the amount may be paid in such number of instalments of principal and interest over a period of not more than five years as the Board permits in accordance with terms and conditions established for instalment payments and for the completion of payment on the death or retirement from employment of the member.

## Matching payments not required

(8) The employer is not required to pay to the Fund an amount equal to a payment made by any person under subsection (2), (4) or (6).

## Contribution, salary and service record

12. The Board shall cause a record to be kept of each member's contributions to the Fund, of the total period of service for which a member has credit in the Plan, and of the annual salary rates of each member while a member and of all other information necessary for the administrative, actuarial and financial requirements of the Plan.

## Refunds before twenty-four months membership

13.—(1) A member who has not attained sixty-five years of age and who ceases to be a member of the Plan before completing a continuous period of twenty-four months of membership and with credit in the Plan of less than two years is entitled to the refund provided by either or both of subsections (11) and (12), as the case requires.



(2) A member who has not attained sixty-five years of age and who ceases to be a member of the Plan after completing a continuous period of twenty-four months of membership or with two or more years of credit in the Plan and before completing ten years of continuous membership and with credit in the Plan for less than ten years is entitled to the refund provided by subsection (11).

Refund  
before ten  
years  
membership

(3) A member who, for reasons other than the member's death or disability, ceases to be a member of the Plan before attaining forty-five years of age and after completing a continuous period of ten or more years of membership or with ten or more years of credit in the Plan is entitled to the refund provided by subsection (11) if the member does not elect a deferred pension in respect of his or her credit in the Plan for service or membership prior to the 1st day of January, 1987.

Refund  
before age  
forty-five

(4) A member who has attained sixty-five years of age and who ceases to be a member of the Plan before completing a continuous period of twenty-four months of membership and with credit in the Plan of less than two years is entitled to the refund provided by either or both of subsections (11) and (12), as the case requires, and to the payment provided by subsection (13).

Refund after  
age sixty-five

(5) A member who has attained sixty-five years of age and who ceases to be a member of the Plan after completing a continuous period of twenty-four months of membership or with two or more years of credit in the Plan and before completing ten years of continuous membership and with credit in the Plan for less than ten years is entitled to the refund provided by subsection (11) and to the payment provided by subsection (13).

Idem

(6) When the cessation of membership referred to in subsection (1), (2), (4) or (5) occurs because of the death of the member, and the member is not survived by a child or children under eighteen years of age or by a spouse from whom the member is not living separate and apart at the member's death, the refund mentioned in those subsections, but not a payment described in subsection (13), shall be paid to the member's estate.

Refund on  
death where  
no survivor

(7) If a member dies while a member of the Plan and after completing a continuous period of ten or more years of membership or with ten or more years of credit in the Plan and, if the member is not survived by a child or children under eighteen years of age or by a spouse from whom the member is not living separate and apart at the member's death, the member's estate is entitled to be paid the refund provided by subsection (11).

Idem

(8) Despite subsections (1), (2), (4) and (5), if the cessation of membership referred to in those subsections occurs because of the death of the member, and the member is survived by a child or children under eighteen years of age or by a spouse from whom the member is not living separate and apart, the spouse, or if there is no such spouse surviving, the child or children under eighteen years of age is or are, as the case requires, entitled,

Refund on  
death to  
survivor

(a) if the death is a cessation of membership referred to in subsection (1) or (4), to the refund provided by either or both of subsections (11) and (12) and to the payment provided by subsection (13); or

(b) if the death is a cessation of membership referred to in subsection (2) or (5), to the refund provided by subsection (11) and to the payment provided by subsection (13).

(9) The amount, if any, by which the total of contributions made to the Fund by or on behalf of a member and the interest credited to the member under subsection 6 (6) exceeds the total payments made from the Fund to the member, to the member's spouse from whom the member is not living

Refund when  
contributions  
exceed  
pension



separate and apart at the member's death and to the member's child or children under eighteen years of age at the member's death shall be paid to the member's estate.

Refund for  
disabled  
member

(10) Despite subsections (1), (2), (4) and (5), a member with credit in the Plan for less than ten years and with less than ten years of continuous membership in the Plan who ceases to be a member because of a mental or physical incapacity that is found by the Board to have rendered the member unable to perform his or her duties is entitled to be paid from the Fund the amount, if any, by which,

- (a) the aggregate of such of the amounts mentioned in subsections (11) and (12) as are applicable and of the additional amount mentioned in subsection (13),

exceeds,

- (b) the aggregate of the amount of the commuted value of any pension benefit for which the member is eligible and the amount of any refund to which the member is entitled under subsection (14).

Pre-1987  
service  
refund

(11) A person entitled to a refund provided by this subsection is entitled to be paid from the Fund an amount equal to the total of the contributions made to the Fund by or on behalf of the member in respect of employment or service for any period before the 1st day of January, 1987, together with interest credited to the member under subsection 6 (6).

Post-1986  
service  
refund

(12) A person entitled to a refund provided by this subsection is entitled to be paid from the Fund an amount equal to the total of the contributions made to the Fund by or on behalf of the member in respect of employment or service for any period after the 31st day of December, 1986, together with interest credited to the member under subsection 6 (6).

Additional  
payments

(13) A person entitled to a payment provided by this subsection is entitled to be paid from the Fund an additional amount equal to,

- (a) the amount of a refund to which the person is also entitled under either or both of subsections (11) and (12),

less,

- (b) any portion of the amount of the refund that is attributable to a payment made by the person under subsection 11 (2), (4) or (6) and interest credited to the member in respect thereof.

50 per cent  
rule

(14) The amount by which the total of the contributions, other than contributions made under subsection 11 (2), (4) or (6), made to the Fund by or on behalf of a member in respect of employment or service for any period after the 31st day of December, 1986 and the interest credited to the member under subsection 6 (6) exceeds one-half of the commuted value, excluding credit in the Plan for contributions made under subsection 11 (2), (4) or (6), of the pension or deferred pension in respect of that employment or service to which the member is entitled upon ceasing to be a member shall be refunded to the former member.

Lump sum  
payments

(15) A payment or refund to be made under this section shall be paid in a lump sum payment.

Credit  
reduced

(16) A refund made under this section, other than subsection (14), reduces the member's or former member's credit in the Plan by the period of time in respect of which the refund is calculated.

(17) For the purpose of subsections (6), (7), (8) and (9), a child shall not be deemed to have attained eighteen years of age if the child would not, for the purpose of section 23, be deemed to have attained that age. Interpretation

14.—(1) Every member with ten or more years of credit or with ten or more years of continuous membership in the Plan who is found by the Board to be unable to perform his or her duties by reason of mental or physical incapacity is entitled to a disability pension under this section upon applying therefor to the Board and upon resigning from employment. Disability pension

(2) The Board may at any time review the case of any former member to whom a pension under subsection (1) is paid and, if, in the opinion of the Board, the former member has recovered sufficiently to perform his or her former duties, or to perform other duties in the public service, the Board shall report the case to the Human Resources Secretariat and to the ministry, agency or other organizational unit where the former member was employed immediately before his or her disability, and the former member shall be considered for re-employment. Review by Board

(3) If a former member to whom a pension under this section is paid is offered re-employment after the review referred to in subsection (2), the former member ceases to be entitled to receive payment of any further pension under this section whether or not the offer of re-employment is accepted. Re-employment

(4) The termination of the payment of a pension under this section in accordance with subsection (3) does not affect a former member's right to apply for a pension for which he or she is eligible under any other provision of the Plan. Other pension entitlement not affected

15.—(1) Every member who has twenty-four or more months of continuous membership in the Plan or who has two or more years of credit in the Plan and who ceases to be a member of the Plan on or after attaining sixty-five years of age is entitled to a pension computed in accordance with the Plan, except that, if the member has less than ten years of continuous membership and has credit in the Plan for less than ten years, the pension shall be computed only on his or her credit in the Plan for employment or service after the 31st day of December, 1986. Pension at age sixty-five

(2) Every member who has at least twenty years of credit in the Plan and who ceases to be a member of the Plan on or after attaining sixty years of age is entitled to a pension computed in accordance with the Plan. Pension at age sixty

(3) Every member who has credit in the Plan for a period of time that, when added to the member's age on the date the member ceases to be a member of the Plan, totals at least ninety years is entitled to a pension computed in accordance with the Plan. Ninety-year rule

(4) Every member who has at least thirty years of credit in the Plan, who is a member of the Ontario Provincial Police Force when he or she ceases to be a member of the Plan, and who ceases to be a member of the Plan on or after attaining fifty years of age is entitled to a pension computed in accordance with the Plan. Retirement from O.P.P.

(5) Payment of a pension to which a member is entitled under this section shall commence in the month following the month when the member ceases to be a member of the Plan. Payment

16.—(1) Every member who has twenty-four or more months of continuous membership in the Plan or two or more years of credit in the Plan, who ceases to be a member, and who is neither in receipt of a pension provided for in section 14 nor entitled to a pension provided for in section 15 Deferred pension

is entitled to a pension computed in accordance with the Plan, except that, if the member has less than ten years of continuous membership and has credit in the Plan for less than ten years, the pension shall be computed only on his or her credit in the Plan for employment or service after the 31st day of December, 1986.

Payment of  
pension  
under  
subs. (1)

(2) Payment of the pension provided for in subsection (1) shall commence in the month following the month when the former member will attain sixty-five years of age or, if the former member so elects in writing to the Board, payment of the pension shall, subject to the reductions mentioned in section 17, commence in the month following any month that is not earlier than the month when the former member will attain fifty-five years of age or later than the month when the former member will attain sixty-five years of age.

Pre-1966  
credit

(3) Every member who, on ceasing to be a member, has credit in the Plan that is equal to a period of time commencing before the 1st day of January, 1966 and ending with the day the member ceases to be a member, and who is neither in receipt of a pension provided for in section 14 nor entitled to a pension provided for in section 15, is entitled to a pension computed in accordance with the Plan.

Payment of  
pension  
under  
subs. (3)

(4) Payment of the pension provided for in subsection (3) shall commence in the month following the month when the former member will attain sixty years of age or, if the former member so elects in writing to the Board, payment of the pension shall, subject to the reductions mentioned in section 17, commence in the month following any month that is not earlier than the month when the former member will attain fifty years of age or later than the month when the former member will attain sixty years of age.

Revocation  
of election

(5) An election made under subsection (2) or (4) may, with the approval of the Board, be revoked by the member or former member and a fresh election in writing to the Board may be made if the commencement of payment therein provided for is neither earlier than the month following the month when the fresh election is delivered to the Board nor earlier than is permitted by subsection (2) or (4), whichever is applicable, and is not later than the latest month permitted by subsection (2) or (4), whichever is applicable, but no election may be revoked after payment of the pension is due to commence.

Transfer of  
commuted  
value of  
pension

1987, c. 35

(6) A former member who is entitled to a pension under subsection (1) or (3) and who has not attained fifty-five years of age in the case of a pension mentioned in subsection (1) or has not attained fifty years of age in the case of a pension mentioned in subsection (3) may require the commuted value of the pension to be paid, subject to section 43 of the *Pension Benefits Act, 1987* and to the regulations made under that Act,

- (a) to the pension fund of another pension plan that agrees to accept the payment;
- (b) into a retirement savings arrangement prescribed under the *Pension Benefits Act, 1987*; or
- (c) for the purchase for the former member of a deferred life annuity under which payments will not commence before the former member attains fifty-five years of age, if the pension the commuted value of which is paid is mentioned in subsection (1), or fifty years of age, if the pension the commuted value of which is paid is mentioned in subsection (3), and if the contract to purchase the annuity meets the requirements prescribed under the *Pension Benefits Act, 1987*.



17.—(1) Subject to subsections 15 (1) and 16 (1) and to the other subsections of this section, the annual amount of every pension payable to a former member is 2 per cent of the former member's average annual salary multiplied by the former member's years of credit in the Plan, including any fraction of a year, to a maximum of thirty-five years.

Computation  
of pension

(2) The annual amount of pension payable to a former member who, on ceasing to be a member, has credit in the Plan that is equal to a period of time commencing before the 1st day of January, 1966 and ending with the day the member ceases to be a member, who has not attained sixty-five years of age, and while the former member is not in receipt of a disability pension under the *Canada Pension Plan* shall be computed in accordance with subsection (1) as though the reference to sixty consecutive months in determining the former member's average annual salary were a reference to thirty-six consecutive months and shall be paid, subject to the reduction required by subsection (5), until the former member attains sixty-five years of age or receives a disability pension under the *Canada Pension Plan*, and upon the occurrence of either of those events, the former member's pension shall be recomputed in accordance with subsection (1) without reference to this subsection.

Pension for  
pre-1966  
credit

R.S.C. 1985,  
c. C-8

(3) When a former member,

CPP  
reduction

(a) who is in receipt of a pension attains sixty-five years of age or receives a disability pension under the *Canada Pension Plan*; or

(b) who is not in receipt of a pension commences to receive a pension on or after attaining sixty-five years of age,

the annual amount of the pension computed under subsection (1) shall be reduced by the product of,

(c) 0.7 per cent of the lesser of,

(i) the former member's average annual salary, and

(ii) the former member's average year's maximum pensionable earnings; and

(d) the number of years, including any fraction of a year, of the former member's credit in the Plan for service on or after the 1st day of January, 1966 to a maximum of thirty-five years.

(4) The annual amount of every pension provided for in subsection 16 (1) shall, after computation in accordance with subsection (1), be reduced by five-twelfths of 1 per cent thereof for each month in the period commencing with the first day of the month in which payment of the pension is to commence and ending with the last day of the month when the former member will attain sixty-five years of age, and when the reduction required by subsection (3) is calculated, the reduction required by this subsection applies only to the annual amount of pension payable after giving effect to the reduction required by subsection (3) and shall, if applicable, be recalculated on that basis.

Early  
retirement  
reduction

(5) The annual amount of every pension provided for in subsection 16 (3) shall, after computation in accordance with subsection (2), be reduced as required by the *Public Service Superannuation Act*, as it read on the 31st day of December, 1965, and the reduction shall continue until the former member attains sixty-five years of age or receives a disability pension under the *Canada Pension Plan* and, upon the occurrence of either of those events, the former member's pension shall be recomputed in accordance with subsection (1) and reduced as required by subsection (3), and the

Idem, pre-  
1966 credit  
R.S.O. 1980,  
c. 490



annual amount of pension payable after that reduction shall be further reduced by five-twelfths of 1 per cent thereof for each month in the period commencing with the first day of the month in which payment of the pension commenced and ending with the last day of the month when the former member attained sixty years of age.

Guarantee  
for pre-1966  
credit

(6) If the annual amount of pension computed in accordance with subsection (1),

(a) less the reduction required by subsection (3) and, if applicable, subsection (5); and

(b) plus,

R.S.C. 1985,  
c. C-8

(i) the annual amount of any disability pension to the former member from the *Canada Pension Plan*, or

(ii) the annual amount of pension that the former member would have received from the *Canada Pension Plan* if that pension commenced only on the former member's attaining sixty-five years of age,

other than the part of that pension derived from contributions made to the *Canada Pension Plan* after the former member ceased to be a member of the Plan,

that is payable to a former member who,

(c) has credit in the Plan that is equal to a period of time commencing before the 1st day of January, 1966 and ending with the day the former member ceased to be a member of the Plan; and

(d) has attained sixty-five years of age or is receiving a disability pension under the *Canada Pension Plan*,

R.S.O. 1980,  
c. 490

is less than the annuity or annual amount of allowance that would be payable to the former member under the *Public Service Superannuation Act*, as it read on the 31st day of December, 1965, in respect of the former member's credit in the Plan, the amount of the difference shall be added to the annual amount of the pension computed in accordance with subsection (1) that is payable after making the reductions required by subsection (3) and, if applicable, subsection (5).

Reduction  
for survivor  
pension

(7) If, on the first day of the month when payment of the pension to a former member is to commence, the former member has a spouse from whom the former member is not living separate and apart, the annual amount of the former member's pension computed in accordance with this section, other than this subsection, shall be reduced in such manner as the Board approves to reflect the following rules:

1. Determine the present value of the pension payable to the former member and the spouse on the assumption that a survivor pension is payable to the spouse equal to one-half of the former member's pension computed in accordance with this section, other than this subsection, that the survivor pension is payable for the lifetime of the surviving spouse, and that, if the spouse was not the spouse of the former member when the former member ceased to be a member of the Plan, no survivor pension is payable to the spouse.
2. Determine the reduction in the amount of the former member's annual amount of pension computed in accordance with this section, other than this subsection, that is required in order to provide to the

spouse of the former member, at the present value determined under paragraph 1, the survivor pension provided by subsection 19 (1).

3. Reduce the annual amount of the former member's pension computed in accordance with this section, other than this subsection, by the amount of the reduction determined under paragraph 2.

(8) If a computation under this section involves a part of a year, the part shall be determined on the basis of full months, and, Computation of partial year

- (a) any part of a month that is less than fifteen days shall be disregarded; and
- (b) any part of a month that is fifteen days or more shall be deemed to be a month.

18.—(1) The Board is not required to commence payment of a pension to which a person is entitled under the Plan until a written application is delivered to the Board setting out such information as is prescribed and such information as is, in the opinion of the Board, necessary to establish the person's entitlement to the pension and the amount thereof. Application for pension

(2) Unless otherwise expressly provided in this Plan, a pension, Payment

- (a) is payable in monthly instalments for life; and
- (b) ceases to be payable after the month when the person in receipt of the pension dies or entitlement to payment of the pension ceases.

(3) If a person is entitled to be paid a pension the annual amount of which, before the reductions mentioned in subsections 17 (4) and (5), is not more than, Commutation of pension

- (a) 2 per cent of the Year's Maximum Pensionable Earnings as prescribed by the *Canada Pension Plan*; or R.S.C. 1985, c. C-8
- (b) such greater amount as is permitted by the *Pension Benefits Act*, 1987, c. 35

in the year when the member for whose credit in the Plan the pension is payable ceased to be a member of the Plan, the Board may pay the commuted value of the pension to the person.

19.—(1) Subject to subsections (2) and (3), if, on the first day of the month in which payment of a pension to a former member is to commence, the former member has a spouse from whom the former member is not living separate and apart, the spouse is, if he or she survives the death of the former member, entitled to be paid for his or her lifetime an annual amount of pension equal to 60 per cent of the annual amount of pension that the former member is entitled to receive in the month when the former member dies, and payment thereof shall commence in the month following the month when the former member dies. Pension to surviving spouse

(2) If a survivor pension under subsection (1) is payable as the result of the death of a former member before attaining sixty-five years of age and before the reduction of his or her pension in accordance with subsection 17 (3), the annual amount of pension on which the survivor pension is based shall be reduced in accordance with that subsection as though the former member had attained sixty-five years of age immediately before his or her death. Death before age sixty-five

Waiver of  
survivor  
pension

(3) Despite subsection (1), a member or former member and the spouse of the member or former member from whom the member or former member is not living separate and apart,

(a) may elect that the spouse receive a survivor pension under subsection (1) of 50 per cent rather than 60 per cent if the member or former member and the spouse are not or were not living separate and apart when the member or former member ceases or ceased to be a member of the Plan; or

(b) may waive the spouse's entitlement to a survivor pension under subsection (1) if the member or former member and the spouse are or were living separate and apart when the member or former member ceases or ceased to be a member of the Plan,

by delivering to the Board within twelve months prior to the month when payment of the pension to the member or former member is to commence a written direction in the form approved by the Board and signed by both of them or a certified copy of a domestic contract, within the meaning of Part IV of the *Family Law Act, 1986*, containing the election or waiver.

1986, c. 4

Revocation  
of waiver or  
election

(4) Persons who have delivered a waiver or election under subsection (3) may jointly cancel the waiver or election by written notice of cancellation signed by them and delivered to the Board before the month when the pension is to commence to be paid to the member or former member.

Reduction  
not to be  
made

(5) The reduction required by subsection 17 (7) shall not be made if an election or waiver made as permitted by subsection (3) is in force in the month when the pension is to commence to be paid to the member or former member.

Survivor  
pension to  
child on  
death of  
spouse

(6) On the death of a spouse to whom a survivor pension is paid under this section, section 20 or 23, an annual amount of pension equal to that survivor pension is payable to or among such of the child or children of the former member on whose death the survivor pension became payable to the spouse as are, at the death of the spouse, under eighteen years of age until each child attains that age or dies under that age, and the share of the children who attain that age or die under that age accrues to the child or children, if any, remaining under that age.

Increased  
survivor  
pension

20.—(1) The amount of the survivor pension payable under section 19 may be increased to 65 per cent, 70 per cent or 75 per cent of the pension of the former member, after taking into account the reduction required by subsection (4), by a written direction signed by the member or former member on whose pension the survivor pension is based specifying the percentage to which the survivor pension is to be increased, and the direction shall be delivered to the Board at least two years prior to the month when payment of the pension to the member or former member is to commence.

Idem

(2) The Board shall accept a direction mentioned in subsection (1) that is delivered to the Board after the time mentioned in that subsection and before the month when the pension is to commence to be paid to the member or former member if the Board is satisfied that the member or former member is in good health having regard to his or her age.

When  
direction not  
valid

(3) A direction delivered in accordance with subsection (1) or accepted in accordance with subsection (2) is of no effect if the member who gives it dies while a member of the Plan.

Actuarial  
reduction of  
pension

(4) The annual amount of pension computed in accordance with section 17 payable to a former member who has given a valid direction delivered in accordance with subsection (1) or accepted in accordance with subsection



(2) shall be actuarially reduced in a manner approved by the Board to reflect the increased survivor pension specified in the direction and the increased survivor pension shall be paid in lieu of that provided for in section 19.

(5) A person who gives a direction mentioned in subsection (1) or (2) may revoke the direction by a written revocation delivered to the Board before the month when payment of the person's pension is to commence. Revocation of direction

21.—(1) A former member who, after commencing to receive a pension and when the former member has no spouse entitled to a survivor pension under section 19, becomes the spouse of a person who would not be entitled on the death of the former member to a survivor pension under section 19 may in writing direct the Board to pay to the person, if he or she survives the death of the former member, a survivor pension for life of 50 per cent, 55 per cent, 60 per cent, 65 per cent, 70 per cent or 75 per cent of the pension received by the former member immediately before his or her death. Post-retirement marriage

(2) A direction mentioned in subsection (1) must be delivered to the Board, Time limit

(a) within ninety days after the date on which the former member became the spouse of the person to whom the survivor pension is directed to be paid; or

(b) if immediately before the person becomes the spouse of the former member there is a child of the former member who would be entitled on the former member's death to receive a pension, within ninety days after the date the child ceases to be entitled to receive the pension.

(3) The Board may accept a direction mentioned in subsection (1) and delivered after the time mentioned in subsection (2) if the Board is satisfied that the former member giving the direction is in good health having regard to his or her age. Exception

(4) The annual amount of pension payable to a former member who has given a valid direction in accordance with this section shall be actuarially reduced in a manner approved by the Board to reflect the survivor pension directed to be paid and, subject to subsection (5), the survivor pension shall be paid in the percentage specified in the direction to the spouse if he or she survives the death of the former member. Actuarial reduction of pension

(5) A survivor pension under this section shall not be paid while there is a child of the deceased former member entitled to receive a pension as a result of the death of the former member. Prior interest of child

22.—(1) If a member who has twenty-four or more months of continuous membership or two or more years of credit in the Plan, Survivor pension on death before payment of pension

(a) dies while a member of the Plan; or

(b) dies after ceasing to be a member of the Plan and before the beginning of the month when payment of his or her pension is to commence,

the commuted value, as determined by the Board, of the member's or former member's pension benefit determined immediately prior to his or her death and on the basis only of his or her credit in the Plan for employment or service after 1986 is payable,



- (c) to the spouse of the member or former member from whom the member or former member is not living separate and apart;
- (d) if no payment under clause (c) can be made, or if the member or former member has no spouse who survives the date of death of the member or former member, to the beneficiary designated in accordance with this section by the member or former member; or
- (e) if no payment can be made under clause (c) or (d), to the estate of the member or former member.

Payment to spouse

(2) Subject to subsection (3), the commuted value payable under subsection (1) to the spouse of a member or former member shall be paid in the form of an immediate pension for the lifetime of the spouse, and the commuted value of the pension so payable shall be equal to the commuted value payable under subsection (1), and payment thereof shall commence in the month following the month when the member or former member dies.

Election by spouse

(3) The spouse to whom an immediate pension is payable under subsection (2) may, in writing in the approved form delivered to the Board in the time fixed by the Board, elect to receive the commuted value payable under subsection (1) in the form of,

- (a) a single lump sum payment equal to the commuted value payable under subsection (1); or
- (b) a deferred pension the commuted value of which is equal to the commuted value payable under subsection (1).

Waiver of spouse's entitlement

(4) A member or former member and his or her spouse may, by written waiver in the approved form delivered to the Board in the time fixed by the Board, waive the spouse's entitlement under subsection (1) and, while the waiver is in effect, that subsection shall be applied as if the member or former member does not have a spouse on the date of the death of the member or former member.

Designation of beneficiary

(5) The designation of a beneficiary for the purpose of this section shall be made and delivered to the Board in such form and manner as the Board requires.

Survivor pension for pre-1987 credit

**23.—**(1) If a member who has ten or more years of credit in the Plan or has ten or more years of continuous membership in the Plan dies while a member of the Plan, or dies after ceasing to be a member of the Plan and before the beginning of the month when payment of his or her pension is to commence, an annual amount of pension equal to one-half of the member's or former member's pension computed in accordance with section 17 as though the member or former member had attained sixty-five years of age and on the basis only of his or her credit in the Plan for employment or service before 1987 is payable,

- (a) to the spouse of the member or former member from whom the member or former member, at his or her death and at the cessation of his or her membership in the Plan, was not living separate and apart; or
- (b) if no payment under clause (a) can be made, to or among such of the child or children of the member or former member as are, at the death of the member or former member, under eighteen years of age until each child attains that age or dies under that age, and the share of each of the children who attains that age or dies under that age accrues to the child or children, if any, remaining under that age.

(2) Payment of a survivor pension under this section shall commence in the month following the month when the member or former member dies, and the survivor pension payable to a spouse under this section is payable for the life of the spouse. Payment

(3) For the purpose of this section and subsection 19 (6), a child who has attained eighteen years of age shall be deemed not to have attained that age if, since attaining that age, the child has been, in the opinion of the Board, continuously in full-time attendance at either or both of, Exception for higher education

(a) a secondary school; or

(b) for five years following secondary school, a post-secondary educational institution that is recognized as such by the Board.

24.—(1) In the formulas in this section,

Inflation adjustment

“A” is the carry forward determined for the immediately preceding year,

“B” is the basic ratio for the year,

“C” is the adjustment ratio for the year,

“D” is the basic ratio for the year next following the year when the member for whose credit in the Plan the pension in respect of which the formula is applied is payable ceased to be a member of the Plan, and shall be calculated to a maximum of 1.080 or to a minimum of 1.000, and

“E” is the number of full months in the year that are after the month in the year when the member for whose credit in the Plan the pension in respect of which the formula is applied is payable ceased to be a member of the Plan.

(2) In this section,

Definitions

“accumulated adjustment ratio”, for the pension of a person, means the product of the multiplication of all adjustment ratios for the years in the period commencing with the year when the member for whose credit in the Plan the pension is payable ceased to be a member of the Plan and ending with the year for which the accumulated adjustment ratio is being determined;

“adjustment ratio”, for the pension of a person, means,

(a) for any year before the year 1976 and for the year when the member for whose credit in the Plan the pension is payable ceased to be a member of the Plan, 1.000,

(b) if the member for whose credit in the Plan the pension is payable ceased to be a member of the Plan in or after the year 1975, for the year next following the year when the member for whose credit in the Plan the pension is payable ceased to be a member of the Plan, the ratio determined by the formula

“ $[(D - 1.000) \times E / 12] + 1.000$ ”, and

(c) for the later of the year 1976 and the second year after the year when the member for whose credit in the Plan the pension is payable ceased to be a member of the Plan and for any subsequent year, the

ratio determined by the formula "A + B" calculated to a maximum of 1.080 or to a minimum of 1.000;

"basic ratio", for a year, means the ratio expressed to three decimal places that the average for the Consumer Price Index over the last twelve months of the twenty-four-month period ending with the 30th day of September in the immediately preceding year bears to the average for the Consumer Price Index over the first twelve months of that period;

"carry forward", with respect to the pension of a person, means,

- (a) for any year before the year 1976, for the year when the member for whose credit in the Plan the pension is payable ceased to be a member of the Plan and for the year next following that year, nil, and
- (b) for the later of the year 1976 and the second year following the year when the member for whose credit in the Plan the pension is payable ceased to be a member of the Plan and for any subsequent year, the positive or negative number determined by the formula "A + B — C";

R.S.C. 1985, c. S-19 "Consumer Price Index" means the Consumer Price Index for Canada as published by Statistics Canada under the authority of the *Statistics Act* (Canada);

R.S.O. 1980, c. 419 "member" includes a contributor within the meaning of the *Public Service Superannuation Act* or a predecessor Act;

"pension" means a pension to which a person is entitled from the Plan other than the adjustment for inflation provided by this section, and an allowance, annuity, deferred annuity or other periodic payments to which a person has become entitled under the *Public Service Superannuation Act* or a predecessor Act;

"Plan" includes the pension plan established under the *Public Service Superannuation Act* and any predecessor Act.

Payment of  
inflation  
adjustment

(3) The annual amount of pension payable to a person from the Fund shall, commencing with the year when payment of the pension is to commence and in each subsequent year that the pension continues to be payable, be adjusted for inflation by multiplying the annual amount of the pension by the accumulated adjustment ratio for the pension of the person for that year, and the amount by which the pension thus adjusted exceeds the annual amount of pension before the adjustment in each year shall be paid to the person entitled to receive the pension for which it is calculated at the same times, in the same manner and subject to the same terms and conditions as apply to the pension in respect of which it is paid.

Ratio not to  
apply  
R.S.O. 1980,  
c. 490

(4) The ratio determined for the year 1990 under the *Superannuation Adjustment Benefits Act* does not apply to a pension to which this section applies.

Pre-  
retirement  
part-time  
employee

25.—(1) A full-time employee who is permitted to continue the duties of his or her position as a part-time employee in accordance with this section for the final years of his or her employment in the public service is entitled to have his or her pension determined in accordance with this section if the employee meets all of the conditions set out in subsection (2) and gives the notice of election required by subsection (3).

Conditions

(2) The conditions referred to in subsection (1) are,



- (a) that the employee's part-time employment must be and continue to be,
  - (i) in a position that requires regular employment for at least fourteen hours per week or nine full days in each four weeks, or
  - (ii) full-time employment in a classified position in the civil service for at least one-third of each twelve-month period or part thereof following the giving of the notice required by subsection (3) and before the employee's retirement on the date provided for in the notice;
- (b) that the employee must not be employed as a regular full-time employee in the public service at any time after giving the notice required by subsection (3) and before receiving a pension under the Plan;
- (c) that during the period of part-time employment specified by the employee in the notice given in accordance with subsection (3), contributions are made to the Fund by the employee and the employer on the basis of the salary payable for full-time employment in the position held by the employee immediately before the giving of the notice; and
- (d) that the employee's deputy minister must approve in writing the change from full-time to part-time employment proposed by the employee.

(3) A full-time employee who wishes to contribute to the Fund on the basis provided for in this section shall give to his or her deputy minister a written notice signed by the employee stating, Notice

- (a) that the employee intends to retire from employment in the public service not later than five years after the day on which the notice is given;
- (b) that the employee wishes to perform the duties of his or her position on a part-time basis until retirement from employment; and
- (c) that the employee wishes to continue to contribute to the Fund on the basis of his or her salary as a full-time employee in the position.

(4) Despite the definition of "annual salary rate" and "credit", while an employee continues to comply with the conditions described in subsection (2), Pension on basis of full-time employment

- (a) contributions shall be made to the Fund by the employee and the employer on the basis of the salary payable for full-time employment in the position held by the employee immediately before the giving of the notice;
- (b) the employee's annual salary rate shall be that on which contributions to the Fund are paid; and
- (c) the employee shall be given credit in the Plan on the basis of full-time employment in the position in which the employee is employed part-time.

(5) If an employee who contributes to the Fund in accordance with this section resumes full-time employment in the public service after giving the notice required by subsection (3) and before receiving his or her pension, Resuming full-time employment



the employee's contributions to the Fund and credit in the Plan shall be recomputed without reference to subsection (4).

Excess  
contributions  
refunded

(6) Contributions to the Fund under this section in excess of those required after the application of subsection (5) shall be refunded to the person who paid them.

Interpretation  
R.S.O. 1980,  
c. 418  
Re-  
employment  
of pensioner

(7) In this section, "public service" has the same meaning as in the *Public Service Act*.

26.—(1) If a former member who is receiving a pension is, in the opinion of the Board, re-employed or engaged in any capacity in the service of the Crown, any pension that the former member is entitled to receive during the re-employment or engagement shall, for any period of three months commencing on the 1st day of January, April, July or October in any year during which the former member is so re-employed or engaged, be reduced by the amount by which the sum of,

(a) three times the monthly salary paid to the former member in that period of three months; and

(b) the pension payable to the former member in that period of three months if this section were not applicable to the former member,

exceeds the product of three times the monthly salary payable to the former member for the last full month of employment before he or she ceased to be a member of the Plan.

Idem

(2) Any period of re-employment or engagement referred to in subsection (1) for which a person may and does contribute to the Fund shall be added to the person's credit in the Plan, and any pension payable on termination of the re-employment or engagement shall be recalculated to take into account the additional credit and any pension earlier received by the person.

Re-  
employment  
in expert  
capacity

(3) Despite subsection (1), the pension of a person who is appointed by the Lieutenant Governor in Council for a period not exceeding six months at a time to provide to the Crown the professional, expert or technical knowledge of the person in a special capacity required by the Crown shall not be reduced if the appointment so provides.

Void  
transactions

27.—(1) Every transaction that purports to assign, charge, anticipate or give as security the interest, or any part thereof, of any person in the Fund or in any pension or other sum payable out of the Fund is void.

Exemption  
from seizure

(2) The interest of any person in the Fund or in any pension or other sum payable out of the Fund is exempt from execution, seizure or attachment.

Order or  
separation  
1987, c. 35  
1986, c. 4

(3) Subject to section 52 of the *Pension Benefits Act, 1987*, subsections (1) and (2) do not apply to prevent the operation of any order under the *Family Law Act, 1986* or the provisions of a domestic contract, as defined in Part IV of that Act.

Order for  
support or  
maintenance

(4) Subsections (1) and (2) do not apply to prevent execution, seizure or attachment in satisfaction of an order for support or maintenance enforceable in Ontario to a maximum of one-half of the interest of any person in the Fund or in any pension or other sum payable out of the Fund.

Application  
of subs. (4)

(5) Subsection (4) applies to orders of support or maintenance enforceable in Ontario whether made before or after the 31st day of December, 1989.

(6) Despite subsections (1) and (2), if a person entitled to a refund or a lump-sum payment from the Fund requests the Board in writing to have the refund or payment paid, Payment into other funds

(a) into another registered pension plan;

(b) into a registered retirement savings plan that meets the requirements of the *Income Tax Act* (Canada);

R.S.C. 1952,  
c. 148

(c) to an insurance company to purchase an immediate or deferred life annuity; or

(d) into a pension plan approved by the Board,

the refund or payment shall be so paid.

28.—(1) A payment to be made under the Plan to a member's estate may be made to the executor or administrator of the member's estate or to the person or persons who appear to the Board to be properly acting in the administration or distribution of the member's estate or, if no executor or administrator or other person acting in the administration or distribution of the member's estate can be ascertained to the satisfaction of the Board, the payment may be paid into the Supreme Court of Ontario to the credit of the member's estate. Payment to estate

(2) If, after the death of a person, no spouse or child or designated beneficiary of that person can be found entitled to receive a pension on the person's death, and the Board is satisfied that reasonable inquiries have been made to find the spouse or child or designated beneficiary, and more than one year has passed since the death of the person, the Board may, despite any other provision of the Plan, direct that the money that would be payable under the Plan to the person's estate if the person had died leaving no surviving child or spouse or designated beneficiary entitled to be paid a pension on the person's death be paid to the person's estate upon such terms and conditions as the Board determines. Missing beneficiary

(3) If the spouse or child or designated beneficiary referred to in subsection (2) is subsequently found and a claim is made for any money payable under the Plan, the Board may direct that such money, less any money paid under subsection (2), be paid to the spouse or child or designated beneficiary, as the case may be. Beneficiary later found

29.—(1) The Public Service Superannuation Board is continued under the name of the Public Service Pension Board and the Board is constituted a corporation without share capital. Board to be corporation

(2) The *Corporations Act* does not apply to the Board.

Application  
of  
R.S.O. 1980,  
c. 95

(3) The Board shall be composed of at least three members, and the members shall be appointed by the Lieutenant Governor in Council for such term, not exceeding three years on each appointment or reappointment, as is specified in the appointment or reappointment. Board members

(4) If the Lieutenant Governor in Council considers it appropriate and desirable, members may be appointed to the Board because of their expertise in the management, investment or administration of pension plans or in order to represent on the Board, subject to the requirements of the *Pension Benefits Act, 1987*, the concerns of the Crown, of members required to contribute to the Fund or of persons receiving pensions under the Plan. Idem 1987, c. 35

Reappointment (5) A member whose appointment has expired may be reappointed to the Board, but no reappointment shall be for a term that, when added to the member's current unbroken period of membership, exceeds six consecutive years of membership.

Chairperson and vice-chairperson (6) From the members of the Board, the Lieutenant Governor in Council may designate a chairperson and one or more vice-chairpersons for a term not to exceed two years or such lesser period as the person remains a member of the Board and, if the Lieutenant Governor in Council does not designate a chairperson or vice-chairperson within one month after the position becomes vacant, the members of the Board shall elect one of them to be chairperson, and may elect one or more of them to be vice-chairperson, but the term for which any chairperson or vice-chairperson is elected shall not exceed two years or the remaining period of his or her appointment to the Board, whichever is shorter.

Remuneration 30. The Lieutenant Governor in Council shall establish the remuneration or range of remuneration to be paid to a member of the Board and to the chairperson and vice-chairperson, but no member of the Board who is employed in the public service of Ontario shall be paid any remuneration other than reimbursement for expenses actually incurred in the performance of his or her duties as a member of the Board or an honorarium in recognition of salary lost by the public servant for attendance at a meeting of the Board.

Duty of Board 31.—(1) It is the duty and responsibility of the Board to administer the Plan and manage the Fund in accordance with this Act, the Plan and the *Pension Benefits Act, 1987*.

Employment of officers and others (2) The Board shall appoint or employ an actuary, an auditor and such officers, employees, advisers, experts and other persons as are required to carry out the duties and responsibilities of the Board.

Board may make rules (3) The Board may make rules and by-laws for the administration and management of the Plan and the Fund and for the conduct of the affairs of the Board and committees of the Board, and may, for such period as the Board determines and on such terms and conditions as the Board considers appropriate, assign or delegate to any officer, employee, member or committee of the Board or other person retained by the Board the performance or exercise of any of the duties or responsibilities of the Board as the Board considers necessary or desirable.

Idem (4) Without restricting the generality of subsection (3), the Board may make rules,

(a) prescribing the proofs to be furnished as a condition to the payment of a pension;

(b) excluding from salary on which contributions to the Fund are based any payment to a member that is, in the opinion of the Board, not a regular and usual part of the normal remuneration for the member's employment or is a payment in the nature of a special consideration or employee benefit;

(c) approving forms and providing for their use; and

(d) requiring members of the Plan, recipients of pensions under the Plan or applicants for pensions under the Plan to furnish information to or for the use of the Board, and prescribing the form thereof and the information to be furnished.



**32.** The Board has and may exercise all of the powers and capacities of a natural person that are considered by the Board to be necessary or incidental to the carrying out of its duties and responsibilities under this Act and the Plan and, in particular, the Board may,

Powers of  
Board

- (a) contract and be contracted with and sue and be sued;
- (b) acquire by purchase, lease or otherwise any real or personal property for its own use or as an investment of the Fund, and may sell, lease or otherwise dispose of all or any part of its property in its discretion;
- (c) participate with others as a partner or as a member of a syndicate or association of persons in the acquisition, holding, management or disposition of any property by way of investment or otherwise;
- (d) determine the rate of remuneration and the employee benefits and perquisites for its employees and the conditions of employment under which they are employed;
- (e) with the approval of the Management Board of Cabinet, enter into such arrangements as are considered necessary by the Board for the purchase from the Crown of the services of any employee or ministry of the Crown, or for the use of any facilities or equipment belonging to the Crown, that may assist the Board in the management or administration of the Plan or the Fund; and
- (f) with the approval of the Lieutenant Governor in Council, enter into an agreement to administer any other pension plan or fund or administer a benefit plan to provide health or medical or other benefits to persons who have ceased to be members of the Plan and are entitled to a pension, and to recover, where appropriate, the costs of such administration from that plan or fund.

**33.—(1)** The Board may establish such committees as are considered necessary or desirable.

Committees

(2) A committee established by the Board may, with the approval of the Board and in accordance with the policy established by the committee or the Board, delegate to an officer or employee of the Board any of the duties and responsibilities of the committee, including those delegated to the committee by the Board.

Committee  
may delegate

**34.** The quorum for any meeting of the Board or a committee of the Board shall be at least a majority of the members of the Board or committee.

Quorum

**35.** The expenses of the operation of the Board, the administration of the Plan and the management of the Fund shall be paid out of the Fund.

Expenses

**36.** After the close of each fiscal year, the Board shall submit to the Minister a report for the fiscal year just ended of the financial and other affairs of the Plan and the Fund, and the Minister shall submit the report to the Lieutenant Governor in Council and shall then lay the report before the Legislative Assembly if it is in session or, if not, at the next session.

Annual  
report

**37.—(1)** In the reports to the Minister under section 36, the Board shall identify,

Report re  
O.P.P. early  
retirement  
benefit

- (a) the additional cost to the Plan of the pension provided to members of the Ontario Provincial Police Force by subsection 15 (4) over the cost of the pension or deferred pension that would be payable without that subsection; and



- (b) the financial benefit to the Plan from the contributions of members of the Ontario Provincial Police Force under subsection 6 (2), from the employer's contributions made to match contributions under that subsection, and from the return reasonably attributable to the investment of the contributions and of the proceeds received by the Fund from the transfers under subsections 6 (2) and (3) of this Act.

Idem

(2) The Board shall also indicate in its reports the sufficiency of the financial benefits referred to in clause (1) (b) to meet the additional costs referred to in clause (1) (a) and whether those additional costs for pensions that are being paid at the end of the year for which the report is made have been met by the financial benefits that have then accrued to the Fund.

Indemnification

38.—(1) Each employee of the Board and his or her heirs, executors and administrators shall be indemnified and saved harmless by the Board from and against all costs, charges and expenses sustained or incurred in or about any action, suit, proceeding or claim against him or her for any act, omission, deed, matter or other thing made, done or permitted or omitted to be made or done in or about the execution of the duties of his or her employment by the Board, and every payment made for the indemnification is an administrative expense of the Board.

Limitation

(2) Indemnification under subsection (1) does not extend to the act or omission to act of any person that was done or omitted to be done dishonestly or in bad faith.

## SCHEDULE 2

## INTERIM PAYMENTS OF UNFUNDED LIABILITY

	<i>Date of payment</i>	<i>Amount of payment</i>
1.	January 1, 1990	\$6,796,000
2.	February 1, 1990	6,826,000
3.	March 1, 1990	6,856,000
4.	April 1, 1990	6,887,000
5.	May 1, 1990	6,918,000
6.	June 1, 1990	6,949,000
7.	July 1, 1990	6,980,000
8.	August 1, 1990	7,011,000
9.	September 1, 1990	7,042,000
10.	October 1, 1990	7,074,000
11.	November 1, 1990	7,106,000
12.	December 1, 1990	7,137,000
13.	January 1, 1991	7,169,000
14.	February 1, 1991	7,201,000
15.	March 1, 1991	7,234,000
16.	April 1, 1991	7,266,000
17.	May 1, 1991	7,298,000
18.	June 1, 1991	7,331,000
19.	July 1, 1991	7,364,000
20.	August 1, 1991	7,397,000
21.	September 1, 1991	7,430,000
22.	October 1, 1991	7,463,000
23.	November 1, 1991	7,496,000
24.	December 1, 1991	7,530,000
25.	January 1, 1992	7,564,000
26.	February 1, 1992	7,597,000
27.	March 1, 1992	7,631,000
28.	April 1, 1992	7,665,000
29.	May 1, 1992	7,700,000
30.	June 1, 1992	7,734,000
31.	July 1, 1992	7,769,000
32.	August 1, 1992	7,804,000
33.	September 1, 1992	7,838,000
34.	October 1, 1992	7,873,000
35.	November 1, 1992	7,909,000
36.	December 1, 1992	7,944,000



# Bill 36

## **An Act to revise the Public Service Superannuation Act**

**The Hon. M. Elston**

*Chairman of the Management Board of Cabinet*

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*1st Reading*      June 20th, 1989

*2nd Reading*      November 8th, 1989

*3rd Reading*

*Royal Assent*

*(Reprinted as amended by the General Government Committee)*



## EXPLANATORY NOTES

The Bill will continue the existing pension plan established under the *Public Service Superannuation Act* (which contains the basic pension plan) and the *Superannuation Adjustment Benefits Act* (which requires inflation adjustments for benefits payable under the basic plan).

Changes will be made respecting who is eligible to become a member of the plan, the level of contributions required under the plan and certain rules governing pension transfers and the purchase of credit under the plan. Certain provisions of the pension plan (concerning entitlement to benefits and the administration of the plan) will be changed to meet the requirements of the *Pension Benefits Act, 1987*. Additional technical changes are made with respect to the administration of the plan.

Three alternative mechanisms for amending the plan will be provided. Initially, the Lieutenant Governor in Council will be able to amend the plan by order. The Bill will permit the Government to enter into an agreement with the members to establish joint control or member control over the plan. Amendments to the plan will then be made according to the terms of the agreement. Ownership of surplus and responsibility for deficits that may arise under the plan will be concomitant with control over the plan.

A Public Service Pension Board will be created to administer the plan and the pension fund. Custody of the pension fund will be transferred from the Treasurer to the Board. The Treasurer will be responsible for paying any deficit that may exist when the pension fund is transferred to the Board.

The Bill is structured as an Act with two Schedules. The Act contains the particulars of the continuation of the pension plan (sections 3 to 5), the amending mechanisms (section 6), the transfer of the pension fund from the Treasurer to the Board (sections 7 to 11) and transitional provisions (sections 12 to 16). Schedule 1 contains the details of the pension plan (sections 1 to 28) and establishes the Board (sections 29 to 38). Schedule 2 lists the amount of the Treasurer's special monthly payments to liquidate the unfunded liability of the plan as it exists when custody of the pension fund is transferred to the Board.

### *Changes to the pension plan:*

The following are the key changes in the terms of the pension plan:

1. Substantive changes, other than those required by the *Pension Benefits Act, 1987*, include:
  - (a) Contract employees and unclassified part-time employees, who are not eligible to become members of the existing pension plan, have the option of joining the plan. (*Section 2 of Schedule 1*)
  - (b) The rate of a member's required contributions increases by 1 per cent of the member's salary. This increase is matched by an increase in the employer's contributions. (*Section 6 of Schedule 1*)
  - (c) The rules governing the purchase of credit for past service are simplified and the purchase of credit for certain service in the private sector is permitted. (*Section 11 of Schedule 1*)
  - (d) A pensioner who marries after retirement may elect to provide a survivor pension for a spouse, with a corresponding reduction in the amount of the member's pension. (*Section 21 of Schedule 1*)
2. Changes required by the *Pension Benefits Act, 1987* include:

- (a) A person's entitlement to a pension relating to employment after December 31, 1986 vests and his or her contributions are locked in after two years of continuous membership in the plan. (*Section 13 of Schedule 1*)
- (b) The "50 per cent rule" applies, ensuring that a member's contributions under the plan plus interest do not exceed 50 per cent of the commuted value of the pension the member receives for employment since January 1, 1987. (*Section 13 of Schedule 1*)
- (c) The amount of a spouse's survivor pension is increased from 50 per cent to 60 per cent of the member's pension, with a corresponding reduction in the amount of the member's pension. (The member and spouse can waive the increase.) (*Section 19 of Schedule 1*)
- (d) A spouse or beneficiary or the estate of a member entitled to a pension, who dies before beginning to receive it, is entitled to a benefit based on the member's employment after December 31, 1986. (*Section 22 of Schedule 1*)



Bill 36

1989

## An Act to revise the Public Service Superannuation Act

### CONTENTS OF ACT

Section	Section
1. Definitions	11. Subsequent valuations
2. Application	12. Payment of pensions under other Acts
3. Plan continued	13. Expiry of appointments
4. Plan documents	14. Continued application
5. Public Service Superannuation Fund continued	15. <i>Superannuation Adjustment Benefits Act</i> ceases to apply
6. Future revision of Plan	16. Post-retirement marriage
7. Transfer of SAF Account	17. Repeals
8. Initial unfunded liability	18. Commencement
9. Interim payments of unfunded liability	19. Short title
10. Initial valuation	

### CONTENTS OF SCHEDULE 1

Section	Section
1. Definitions	21. Post-retirement marriage
2. Plan members	22. Survivor pension on death before payment of pension
3. Termination of membership	23. Survivor pension for pre-1987 credit
4. Persons not entitled to be members	24. Inflation adjustment
5. Contributions to and payments from Fund	25. Pre-retirement part-time employment
6. Contributions by members	26. Re-employment of pensioner
7. Contributions by employer	27. Void transactions
8. Leave of absence with pay	28. Payment to estate
9. Continued membership on release from employment	29. Board to be corporation
10. Long term income protection	30. Remuneration
11. Prior service with the Crown, etc.	31. Duty of Board
12. Contribution, salary and service record	32. Powers of Board
13. Refunds before twenty-four months membership	33. Committees
14. Disability pension	34. Quorum
15. Pension at age sixty-five	35. Expenses
16. Deferred pension	36. Reciprocal transfer agreements continue to apply
17. Computation of pension	37. Annual report
18. Application for pension	38. Report re O.P.P. early retirement benefit
19. Pension to surviving spouse	39. Indemnification
20. Increased survivor pension	



## CONTENTS OF SCHEDULE 2

## Interim payments of unfunded liability

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

## Definitions

1. In this Act, “actuary”, “Board”, “Crown”, “employer”, “Fund”, “member”, “Minister”, “pension”, “pension benefit”, “Plan”, “salary” and “Treasurer” have the same meaning as in section 1 of Schedule 1.

## Application

2. Subject to subsection 14 (2) and to section 24 of Schedule 1, this Act applies to every person employed after the 31st day of December, 1989 in the service of an employer.

Plan  
continued  
R.S.O. 1980,  
cc. 419, 490

3. The pension plan contained in the provisions of the *Public Service Superannuation Act* and the regulations thereunder, including the benefits provided under the *Superannuation Adjustment Benefits Act* in relation to pensions provided under the *Public Service Superannuation Act*, is continued as the Public Service Pension Plan as revised by this Act and set out in Schedule 1.

Plan  
documents

4. The terms of the Plan are those set out in Schedule 1, in this Act and in such other documents concerning the Plan as are created under this Act or Schedule 1.

Public  
Service  
Superan-  
nuation Fund  
continued

5.—(1) The Public Service Superannuation Fund established under the *Public Service Superannuation Act* is continued as the Public Service Pension Fund to provide benefits in respect of the Plan.

Board to  
administer

(2) The Plan and the Fund shall be administered by the Board in accordance with this Act and the Plan.

Future  
revision of  
Plan

6.—(1) The Lieutenant Governor in Council by order may amend the Plan and, without restricting the generality of the foregoing, may,

- (a) determine the methods or assumptions to be used to calculate any pension benefit provided under the Plan;
- (b) rescind the Plan and replace it with another pension plan;
- (c) extend, modify or restrict the conditions upon which persons may become members of the Plan;

- (d) establish a separate pension plan or plans for any class or classes of persons who are members of the Plan, and direct the transfer from the Fund to any fund related to such separately established pension plan or plans of any amount specified to represent the value, as determined by an actuarial valuation, of the pension benefits of persons who will be members of such separately established pension plan or plans;
- (e) increase or prospectively reduce, eliminate or modify any pension benefit set out in the Plan or the rate or amount of contribution to be made under the Plan;
- (f) regulate the administration of the Plan and the composition, duties and powers of the Board;
- (g) exercise with respect to any plan established under this section the powers conferred by this section.

(2) To the extent that an amendment of the Plan made under subsection (1) conflicts with the *Pension Benefits Act*, 1987 in a matter in which the conflict is not authorized by this Act or Schedule 1, the amendment is void.

Limitation re  
amendment  
1987, c. 35

(3) If the Crown enters into an agreement for an indefinite term with representatives of a majority of the members with respect to,

Agreement  
for joint  
responsibility

- (a) the joint management of the Plan and the Fund by the Crown and representatives of the members;
- (b) the sharing between the Crown and the members of surpluses and deficiencies in the Fund;
- (c) prior consultation between the Crown and the representatives to determine if agreement can be reached between them concerning any change in benefits under the Plan or in the rate or amount of contributions to the Fund from the Crown or the members; and
- (d) mediation procedures following a failure to agree on a change in benefits under the Plan or in the rate or amount of contributions to the Fund,

the powers mentioned in subsection (1) shall, while the agreement remains in force, be exercised only in accordance with the agreement.

Idem

(4) An agreement mentioned in subsection (3) may also provide that, to the extent specified in the agreement, subsections 11 (2) and (5) cease to apply while the agreement is in force.

Agreement  
for member  
responsibility

(5) If it is agreed between the Crown and representatives of a majority of members that the management of the Plan, the entitlement to surpluses in the Fund and the liability for deficiencies in the Fund will be permanently assumed by the members from time to time of the Plan and that the liability of the Crown to contribute to the Fund will be limited to a specified amount or to a specified percentage of members' contributions or salaries, the Lieutenant Governor in Council may provide by order that the powers mentioned in subsection (1) shall be exercised thereafter only in accordance with the agreement and by the person, persons or entity specified in the agreement.

Application  
of  
R.S.O. 1980,  
c. 446

(6) The *Regulations Act* does not apply with respect to an order amending the Plan.

Transfer of  
SAF Account

R.S.O. 1980,  
cc. 419, 490

7.—(1) As of the 31st day of December, 1989, the Treasurer shall transfer to the Public Service Superannuation Fund Account maintained in the Consolidated Revenue Fund under the *Public Service Superannuation Act* the total assets and liabilities of the Public Service Superannuation Fund Account in the Superannuation Adjustment Fund Account maintained in the Consolidated Revenue Fund under the *Superannuation Adjustment Benefits Act*.

Transfer of  
O.P.P.  
Supple-  
mentary  
Benefits  
Account

(2) As of the 31st day of December, 1989, the Treasurer shall transfer to the Public Service Superannuation Fund Account maintained in the Consolidated Revenue Fund under the *Public Service Superannuation Act* the total assets and liabilities of the Ontario Provincial Police Supplementary Benefits Account maintained in the Consolidated Revenue Fund under Order in Council 196/85.

Interest

(3) As of the 31st day of December, 1989, the Treasurer shall pay to the Public Service Superannuation Fund Account maintained in the Consolidated Revenue Fund under the *Public Service Superannuation Act* interest at the rates and on the terms determined by the Lieutenant Governor in Council on the cash balances that from time to time stood to the credit of,

(a) the Public Service Superannuation Fund Account maintained in the Consolidated Revenue Fund under the *Public Service Superannuation Act*;

R.S.O. 1980,  
c. 419



- (b) the Public Service Superannuation Fund Account in the Superannuation Adjustment Fund Account maintained in the Consolidated Revenue Fund under the *Superannuation Adjustment Benefits Act*; and R.S.O. 1980,  
c. 490
- (c) the Ontario Provincial Police Supplementary Benefits Account mentioned in subsection (2),

in the period from the 1st day of April, 1989 to the 31st day of December, 1989.

(4) Interest payable by the Treasurer on assets held on the 1st day of April, 1989 in the accounts referred to in clauses (3) (a), (b) and (c) shall be accrued to the 31st day of December, 1989 and paid as of that date to the Public Service Superannuation Fund Account despite a later time for payment specified in any instrument that provides for payment of the interest, and the payment made to the Account reduces the liability of the Treasurer under the instrument for interest by the amount paid. Idem

(5) Payments by the Treasurer made under subsections (3) and (4) shall be made from the Consolidated Revenue Fund. Idem

(6) As of the 1st day of January, 1990, the Treasurer shall transfer to the custody and control of the Board the total amount of the assets on the 31st day of December, 1989 of the Public Service Superannuation Fund Account maintained in the Consolidated Revenue Fund under the *Public Service Superannuation Act*, including assets and payments transferred or made to that account under this section, by issuing to the Board debentures of the Province of Ontario that are equal to the amount of the assets and that, in the opinion of the Treasurer, provide for the payment of principal and interest on terms substantially equivalent to those on which the assets are held on the 31st day of December, 1989. Transfer of  
PSSF  
Account  
  
R.S.O. 1980,  
c. 419

(7) All liabilities on the 1st day of January, 1990 of the accounts mentioned in subsections (1), (2) and (6) are liabilities of the Fund on and after that date and, as of that date, the accounts cease to exist in the Consolidated Revenue Fund. Liabilities  
transferred to  
Fund

(8) During the period from the 31st day of December, 1989 to the 30th day of June, 1990, the Treasurer may establish outside the Consolidated Revenue Fund an account or accounts for such temporary period as the Treasurer considers advisable to facilitate the orderly transfer to the Board of the assets of the Fund and the administration of the Plan. Temporary  
account  
authorized



## Debentures

(9) For the purpose of subsection (6), the Treasurer may, on behalf of Ontario, issue to the Fund debentures of Ontario in such amounts, upon such terms as to the payment of principal and interest, maturing at such time or times and either with or without the privilege of prepayment of the whole or any part of the principal amount of any such debenture as will, in the opinion of the Treasurer, meet the requirements of this section, and any debenture may provide that it is not assignable or transferrable.

Investments  
authorized  
1987, c. 35

(10) Despite the *Pension Benefits Act, 1987* and regulations thereunder, the receipt and holding by the Board of debentures issued under this section shall not be considered imprudent or unreasonable or contrary to that Act and regulations thereunder, and the nature, amount and terms of the debentures may be taken into account by the Board and any committee of the Board in determining future investments of the assets of the Plan.

Application  
of  
1987, c. 35

(11) Section 82 of the *Pension Benefits Act, 1987* does not apply to the transfers described in this section.

Initial  
unfunded  
liability

**8.—(1)** In this section and in sections 9 and 10 and subsection 11 (3),

“actuarial gain” and “actuarial loss” mean, respectively, the sum, if positive, or the sum, if negative, of,

- (a) the gain to the Plan during the period since the review date of the immediately preceding going concern valuation resulting from the difference between actual experience and the experience expected by the actuarial assumptions on which that valuation was based,
- (b) the amount by which the going concern liabilities decrease as a result of an amendment to the Plan, and
- (c) the amount by which the going concern liabilities decrease or the going concern assets increase as a result of a change in actuarial methods or assumptions upon which the current going concern valuation is based, as of the review date for a going concern valuation,

but clause (a), (b) or (c) or any combination thereof shall be counted as a negative in the calculation of the sum if,

- (d) the experience of the Plan results in a loss rather than a gain,
- (e) an amendment increases the going concern liabilities, or
- (f) a change in actuarial methods or assumptions results in an increase in going concern liabilities or a decrease in going concern assets, as the case may be;

“going concern assets” means the value of the assets of the Plan, including accrued and receivable income and the present value of future contributions and investment income, determined on the basis of a going concern valuation;

“going concern liabilities” means the present value of the expenses of the Plan and the accrued and unaccrued benefits of the Plan determined on the basis of a going concern valuation;

“going concern unfunded actuarial liability” means the excess of going concern liabilities over going concern assets;

“going concern valuation” means a valuation of assets and liabilities of the Plan using methods and actuarial assumptions considered by the actuary who valued the Plan to be in accordance with generally accepted actuarial principles and practices for the valuation of a continuing pension plan;

“initial valuation” means the going concern valuation of the Plan as at the 1st day of January, 1990 required by section 10;

“past service unfunded actuarial liability” means the amount of going concern unfunded actuarial liability that results from the provision of benefits with respect to prior employment for which no benefit was provided at the time of the employment or from an amendment to the Plan that provides benefits for employment prior to the date of the amendment if the employment had not previously been recognized for purposes of the provision of pension benefits;

“review date” means the last date of the period under review in a report required under the *Pension Benefits Act, 1987* or regulations thereunder; 1987, c. 35

“solvency assets” means the sum determined in accordance with subsections (2) and (3) of,

- (a) the market value of investments held by the Plan or a value related to the market value by means of an averaging method that stabilizes short-term fluctuations of the market values over a period of not more than five years, plus any cash balances and accrued or receivable income items,
- (b) the present value of any special payments required to liquidate any past service unfunded actuarial liability established on or after the 1st day of January, 1988,
- (c) the present value of any special payments other than those referred to in clause (b) established on or after the 1st day of January, 1988 that are scheduled for payment within five years after the review date, and
- (d) the present value of future special payments resulting from the initial valuation;

“solvency deficiency” means the excess of the solvency liabilities over the solvency assets;

“solvency gain” means the sum, if positive, of,

- (a) the gain to the Plan during the period since the review date of the immediately preceding valuation of solvency assets and solvency liabilities resulting from the difference between actual experience and the experience expected by the actuarial assumptions on which that valuation was based, and
- (b) the amount by which the solvency liabilities decrease or the solvency assets increase during the period since the review date of the immediately preceding valuation of solvency assets and solvency liabilities as a result of a change in the actuarial methods or assumptions upon which the current valuation of solvency assets and solvency liabilities is based,

but either of clause (a) or (b) shall be counted as a negative in the calculation of the sum if the experience of the Plan results in a loss rather than a gain or if a change in actuarial methods or assumptions results in an increase in solvency liabilities or a decrease in solvency assets, as the case may be;



“solvency liabilities” means an amount that is not less than the liabilities of the Plan determined as if the Plan had been wound up, taking into account liabilities for the adjustment for inflation under the Plan and the requirements of section 75 of the *Pension Benefits Act, 1987*.

1987, c. 35

(2) The present values referred to in clauses (b), (c) and (d) of the definition of “solvency assets” shall be determined on the basis of the assumed interest rate used in determining whether there is a solvency deficiency.

Present values re solvency assets

(3) In calculating the solvency assets, if there is no market value for an investment of the Plan and the investment is issued or guaranteed by a government, the book value of the investment may be used instead of market value.

If no market value

(4) The provisions of this section and of sections 9, 10 and 11 prevail over any conflicting provisions of the *Pension Benefits Act, 1987* or of a regulation made under that Act.

Conflicting provisions

**9.—**(1) For each month in the period commencing with the 1st day of January, 1990 and ending with the last day of the month in which the initial valuation is approved by the Pension Commission of Ontario, the Treasurer shall pay to the Fund from the Consolidated Revenue Fund the amount shown for that month in Schedule 2.

Interim payments of unfunded liability

(2) The Treasurer may, with the appropriate adjustment for interest, at any time prepay one or more of the outstanding payments shown in Schedule 2.

Prepayment

(3) Payments made under subsection (1) or (2) shall be credited against any special payments that are to be made in the same period to liquidate a going concern unfunded actuarial liability disclosed by the initial valuation, and any amount by which the payments made under those subsections are less than the special payments for that period as a result of the initial valuation shall be paid by the Treasurer to the Fund from the Consolidated Revenue Fund within fifteen months following the month when the initial valuation is approved by the Pension Commission of Ontario.

Application of estimated payments

**10.—**(1) As soon as practicable after the 31st day of December, 1989, the Board shall cause to be prepared a going concern valuation of the Plan as at the 1st day of January, 1990, and the valuation shall include the adjustment of pensions for inflation under the Plan.

Initial valuation

(2) The initial valuation shall,

Idem



- (a) comply with this section and section 11;
- (b) be delivered by the actuary to the Board and to the Minister and the Treasurer, and shall be filed with the Pension Commission of Ontario by the Board only after the Minister and the Treasurer have advised the Board in writing that they agree that the initial valuation delivered to them be filed; and
- (c) for all purposes of the Plan determine the going concern unfunded actuarial liability or surplus of the Plan as at the 1st day of January, 1990.

Liability  
liquidated

(3) Any going concern unfunded actuarial liability disclosed by the initial valuation shall be liquidated by a series of special payments from the Consolidated Revenue Fund to be made over the forty years commencing on the 1st day of January, 1990.

Calculation  
of special  
payments

(4) Each special payment mentioned in subsection (3) shall be calculated as a constant percentage of the projected future earnings from employment used to calculate pension benefits during the forty years commencing on the 1st day of January, 1990 of all persons who are members of the Plan on that date and of those who are expected to join the Plan during those forty years.

Present value  
of special  
payments

(5) The present value, as at the 1st day of January, 1990, of the full series of special payments shall equal the amount of the going concern unfunded actuarial liability to be liquidated.

Schedule of  
payments

(6) The actuary shall prepare and submit with the initial valuation a schedule showing the dollar amount of each special payment in the first six years of the series and the formula by which the dollar amount of the remaining special payments in the series is determined.

Prepayments  
and  
additional  
payments

(7) The Treasurer may, at any time, prepay a part or all of any outstanding special payments or may make additional payments to the Fund to be applied, with appropriate adjustments for interest, as the Treasurer shall direct to reduce the going concern unfunded actuarial liability disclosed by the initial valuation, and every such payment may be paid out of the Consolidated Revenue Fund.

Consistent  
assumptions

(8) Subject to subsection (4),

- (a) the projected future earnings from employment used to calculate pension benefits shall be deter-

mined using actuarial assumptions consistent with those made in the initial valuation;

- (b) the present value of the series of special payments shall be determined using the interest rate used in the initial valuation; and
- (c) all other actuarial assumptions made in the determination of the series of special payments shall be, so far as possible, consistent with actuarial assumptions made in the initial valuation.

**11.—(1)** A going concern valuation of the Plan made after the initial valuation shall include the present value of the outstanding special payments calculated under section 10 that remain to be made to liquidate the going concern unfunded actuarial liability disclosed by the initial valuation, and the actuary shall prepare and submit with the valuation a schedule showing the amount, determined from the formula mentioned in subsection 10 (6), of each remaining special payment for the next six years or for the period of time for which special payments remain to be made, whichever is shorter.

Subsequent  
valuations

(2) Any actuarial gain disclosed by a going concern valuation made after the initial valuation shall be applied in the following order and manner:

Application  
of actuarial  
gain

1. The amount of the gain shall first be applied to reduce, and to eliminate if possible, the payments required to liquidate any unamortized balance of a solvency deficiency disclosed by the initial valuation or a subsequent valuation.
2. When no solvency deficiency remains, the amount of the gain shall be applied to reduce, and to eliminate if possible, a going concern unfunded actuarial liability disclosed by a valuation after the initial valuation.
3. When no other going concern unfunded actuarial liability remains, the amount of the gain shall be applied to reduce, and to eliminate if possible, the unliquidated amount of the going concern unfunded actuarial liability disclosed by the initial valuation.

(3) In determining any solvency gain or solvency deficiency of the Plan, solvency assets shall include the present value of future special payments resulting from the initial valuation.

Special  
payments a  
solvency  
asset

When special  
payments  
cease

(4) When the special payments made as a result of the initial valuation, the prepayments and additional payments made under subsection 10 (7), and the actuarial gains applied under paragraph 3 of subsection (2) have liquidated the going concern unfunded actuarial liability disclosed by the initial valuation, no further special payments shall be made, notwithstanding that the period of forty years used in the initial valuation has not then expired.

Minister to  
approve  
valuation

(5) No valuation of the Plan after the initial valuation shall be filed by the Board with the Pension Commission of Ontario until the Minister has advised the Board in writing that he or she agrees that the valuation be filed.

Payment of  
pensions  
under other  
Acts  
R.S.O. 1980,  
cc. 419, 490

**12.** Every allowance, annuity, deferred annuity or other payment under the *Public Service Superannuation Act* or a predecessor Act or under the *Superannuation Adjustment Benefits Act*, including any payment authorized to be made from the Consolidated Revenue Fund, that, before the 1st day of January, 1990, a person is receiving, is entitled to receive, or is entitled to receive with the payment thereof deferred until the year 1990 or later, shall be paid out of the Fund in accordance with the Act under which entitlement to the payment arose.

Expiry of  
appointments

**13.** On the 31st day of December, 1989, the term of appointment of any person under the *Public Service Superannuation Act* as a member of the Public Service Superannuation Board expires.

Continued  
application

**14.—(1)** The *Public Service Superannuation Act*, as it read on the 31st day of December, 1989, continues to apply to the computation or payment of every allowance, annuity, deferred annuity or payment to the payment of which a person has become entitled under that Act prior to that date, and continues to apply in respect of every person who, within the meaning of that Act, has ceased to be a contributor before that date and is entitled to a deferred annuity under that Act.

Exception  
for re-  
employment

(2) A person mentioned in subsection (1) who is re-employed in the service of the Crown or who becomes a member of the Plan, on or after the 1st day of January, 1990, for a prescribed period of time and in prescribed circumstances, terms or conditions, and who is required by, or entitled under, the Plan to contribute to the Fund in respect of such re-employment, may participate in the Plan to the extent prescribed with respect to the computation or payment of a pension or other payment and subsection (1) does not apply in the circumstances.



(3) The Lieutenant Governor in Council may make regulations prescribing a period or periods of time and prescribing circumstances, terms or conditions and the extent of participation in the Plan for the purpose of subsection (2). Regulations

**15.** The provisions of the *Superannuation Adjustment Benefits Act* relating to the payment of, or contribution for, adjustment benefits or any other benefit described in that Act in respect of any allowance, annuity, deferred annuity or other payment arising under the *Public Service Superannuation Act* cease to apply on and after the 1st day of January, 1990. R.S.O. 1980, c. 490 ceases to apply

**16.—(1)** A contributor as defined in the *Public Service Superannuation Act* who, Post-retirement marriage

- (a) is being paid an allowance or annuity under that Act;
- (b) has no spouse entitled to a survivor allowance under section 20 of that Act; and
- (c) becomes the spouse of a person who would not be entitled on the death of the contributor to a survivor allowance under section 20 of that Act,

may in writing direct the Board to pay to the person, if he or she survives the death of the contributor, a survivor allowance under section 20 of that Act for life of 50 per cent, 55 per cent, 60 per cent, 65 per cent, 70 per cent or 75 per cent of the allowance or annuity received by the contributor immediately before his or her death.

(2) A direction mentioned in subsection (1) must be delivered to the Board, Time limit

- (a) within ninety days after the date on which the contributor became the spouse of the person to whom the survivor allowance is directed to be paid; or
- (b) if immediately before the person becomes the spouse of the contributor there is a child of the contributor who would be entitled on the contributor's death to receive an allowance under the *Public Service Superannuation Act*, within ninety days after the date the child ceases to be entitled to receive the allowance;
- (c) the 30th day of June, 1990; or



- (d) the last day of the sixth month following the month in which this Act receives Royal Assent.

## Exception

(3) The Board may accept a direction delivered after the time mentioned in subsection (2) if the Board is satisfied that the contributor is in good health having regard to his or her age.

Actuarial  
reduction of  
allowance

R.S.O. 1980,  
c. 419

(4) The annuity or allowance payable to a contributor who has given a direction in accordance with this section shall be actuarially reduced in a manner approved by the Board to reflect the survivor allowance directed to be paid and, subject to subsection (5), and to section 20 of the *Public Service Superannuation Act*, the survivor allowance shall be paid in the percentage specified in the direction to the spouse if he or she survives the death of the contributor.

Prior interest  
of child

(5) A survivor allowance under this section shall not be paid while there is a child of the deceased contributor entitled to receive an allowance as a result of the death of the contributor.

Refund when  
no survivor  
allowance  
payable

(6) If a contributor who is in receipt of an allowance or annuity dies survived by a child or children under eighteen years of age or by a spouse from whom the contributor is not living separate and apart, and if none of them is entitled to a survivor allowance under section 20 of the *Public Service Superannuation Act*, this section or that Act as a result of the death of the contributor, the amount, if any, by which twice the total of contributions made under the *Public Service Superannuation Act* to the Public Service Superannuation Fund by or on behalf of the contributor and of the interest credited in that Fund to the contributor exceeds the total payments made from the Fund and the Public Service Superannuation Fund to the contributor shall be paid from the Fund to the surviving spouse, or if there is no surviving spouse, to the child or children, if any, of the contributor under eighteen years of age at the contributor's death.

## Repeals

**17.**—(1) The following are repealed on the 1st day of January, 1990:

1. The *Public Service Superannuation Act*, being chapter 419 of the Revised Statutes of Ontario, 1980, excluding subsection 20 (7).
2. Item 13 of the Schedule to the *Revised Statutes Amendment Act, 1981*, being chapter 66.

3. The *Public Service Superannuation Amendment Act, 1983*, being chapter 44.
4. Section 3 of the *Provincial Judges and Masters Statute Law Amendment Act, 1983*, being chapter 78.
5. The *Public Service Superannuation Amendment Act, 1984*, being chapter 22.
6. Section 74 of the *Family Law Act, 1986*, being chapter 4.
7. The *Public Service Superannuation Amendment Act, 1986*, being chapter 12.
8. Section 60 of the *Equality Rights Statute Law Amendment Act, 1986*, being chapter 64.

(2) Subsection 20 (7) of the *Public Service Superannuation Act* is repealed on the 31st day of December, 1989.  Idem

**18.** This Act comes into force on the 31st day of December, 1989. Commence-  
ment

**19.** The short title of this Act is the *Public Service Pension Act, 1989*. Short title

## SCHEDULE 1

## PUBLIC SERVICE PENSION PLAN

## Definitions

## 1. In this Schedule,

“actuary” means a Fellow of the Canadian Institute of Actuaries;

“annual salary rate” means the hourly, weekly or other rate at which a person’s salary is paid expressed as an annual salary according to such consistently applied formula as the Board considers appropriate having regard to the hours regularly worked by a full-time employee in the position occupied by the person for whom the annual salary rate is determined or in a comparable position;

“average annual salary” means the average of the member’s annual salary rate in each month of the period of sixty consecutive months of membership in the Plan that produces the highest average, but if the member does not have a period of sixty consecutive months of membership in the Plan, “average annual salary” means the average of the member’s annual salary rate in each month of the member’s longest period of consecutive months of membership in the Plan;

R.S.C. 1985,  
c. C-8

“average year’s maximum pensionable earnings”, with respect to any member, means the average of the Year’s Maximum Pensionable Earnings under the *Canada Pension Plan* for the year in which the member ceases to be a member of the Plan and for each of the two preceding years;

“Board” means the Public Service Pension Board referred to in this Schedule;

1986, c. 4

“child” has the same meaning as in the *Family Law Act, 1986*;

“continuous”, in relation to employment, membership or service, means without regard to periods of temporary suspension of the employment, membership or service, and without regard to periods of lay-off from employment;

“credit”, when used in reference to credit in the Plan, means the total period of time, calculated in years of full-time employment, for which contributions are made to the Fund on behalf of the member or for which a member is employed and for which contributions to the Fund have been made, and where the member’s employment is less than full-time employment, credit shall be given on the basis of the proportion of full-time employment represented by the member’s employment for which contributions are made to the Fund;

“Crown” means the Crown in right of Ontario;

“employer” means,

(a) the Crown,

(b) an agency, board, commission, foundation or organization designated by order of the Lieutenant Governor in Council as an employer for the purposes of the Plan,

(c) the Provincial Auditor, and

(d) the employer of persons required by any Act of the Legislature to be members of this Plan or the pension plan established by the *Public Service Superannuation Act* or a predecessor Act; ➤

"former member" means a person who has ceased to hold a position, office or designation that entitles the person to be a member of the Plan, and who,

(a) is entitled, either immediately or at a future time, to payment of a pension under the Plan, or

(b) is entitled to receive any other payment under the Plan;

"Fund" means the Public Service Pension Fund;

"member" means a person,

(a) who is required to join the Plan,

(b) who is designated for the purpose of section 9 of the Plan, or

(c) who is not required to join the Plan, but is entitled to join the Plan and has elected to do so,

but does not include a former member;

"Minister" means the Chairman of the Management Board of Cabinet;

"pension" means a pension benefit that is being paid to a person under the Plan;

"pension benefit" means the aggregate monthly, annual or other periodic amounts, if any, to which a member will become entitled under the Plan on or after ceasing to be a member or to which any other person will become entitled under the Plan upon the death of a member or former member;

"Plan" means the Public Service Pension Plan set out in this Schedule;

"salary", in relation to a member, means the amount of money payable to a member and computed by reference to the hours, days, weeks or other specific periods of time for which the member is employed, but does not include overtime pay or any payment to the member in lieu of a benefit provided by the employer or any payment determined by the Board not to be part of a member's salary;

"spouse" means either of a man and woman who,

(a) are married to each other, or

(b) are not married to each other and are living together in a conjugal relationship,

(i) continuously for a period of not less than three years, or

(ii) in a relationship of some permanence, if they are the natural or adoptive parents, as defined in the *Family Law Act*, 1986, c. 4 1986, of a child;

"Treasurer" means the Treasurer of Ontario and Minister of Economics.

2.—(1) The following persons and classes of persons who have not attained sixty-five years of age are members of the Plan:

Plan  
members

1. Persons who are civil servants within the meaning of the *Public Service Act*. R.S.O. 1980, c. 418



2. A class of employees of any agency, board, commission, foundation or organization that is established under an Act of the Legislature and that is designated by order of the Lieutenant Governor in Council as one whose employees in that class are required to be members of the Plan.

3. Persons employed in the Office of the Provincial Auditor.

R.S.O. 1980,  
c. 419

4. Persons required by any Act of the Legislature to be members of this Plan or the pension plan established by the *Public Service Superannuation Act* or a predecessor Act.

5. Any person employed in a capacity or position that is designated by order of the Lieutenant Governor in Council as requiring the employee to be a member of the Plan.

Elective  
membership

- (2) Persons to whom subsection (1) does not apply and who are employed,

R.S.O. 1980,  
c. 418

- (a) by the Crown under the *Public Service Act*;

- (b) by an agency, board, commission, foundation or organization designated by order of the Lieutenant Governor in Council as one whose employees in a designated class are members of the Plan; or

- (c) by an agency, board, commission, foundation or organization the permanent and full-time probationary staff of which are by any Act required to be members of the Plan,

are entitled to be members of the Plan upon filing with the Board a written election to be a member, and after fulfilling any conditions specified in the order mentioned in clause (b).

Idem

- (3) A person appointed by the Lieutenant Governor in Council to membership on an agency, board, commission, foundation or organization is, when the appointment so permits or the position has been designated by the Lieutenant Governor in Council for the purpose of this subsection, entitled to be a member of the Plan upon filing with the Board a written election to be a member, and after fulfilling any conditions specified in the appointment or designation.

Termination  
of  
membership

3. A member ceases to be a member of the Plan upon termination by death or otherwise of the employment, office or circumstances that required or entitled him or her to be a member of the Plan or upon attaining the maximum age for contributors to a pension fund or plan specified under the provisions of the *Income Tax Act* (Canada) and regulations made thereunder for the registration under that Act of a pension fund or plan.

R.S.C. 1952,  
c. 148

Persons not  
entitled to be  
members

4. A person is not entitled to be a member of the Plan if the person,

- (a) is a member of, or a contributor to, a pension plan to which the Crown contributes other than this Plan or the *Canada Pension Plan*; or

R.S.C. 1985,  
c. C-8

- (b) has attained the maximum age for contributors to a pension fund or plan specified under the provisions of the *Income Tax Act* (Canada) and regulations made thereunder for the registration under that Act of a pension fund or plan.

Contributions  
to and  
payments  
from Fund

- 5.—(1) Subject to section 7, contributions required to be made under this Plan by an employer or by any member, including interest required to

be paid to the Fund, shall be paid into the Fund, and any payment required by the Plan to be made to any person shall be made out of the Fund, and all moneys not required to be paid out shall be invested to meet the obligations and liabilities of the Plan.

(2) The fiscal year of the Plan is the twelve-month period commencing on the 1st day of January in each year. Fiscal year

6.—(1) Subject to subsection (5), every member shall contribute to the Fund from the salary paid to the member for the calendar year, Contributions by members

(a) 8 per cent of the amount of salary that does not exceed the Year's Basic Exemption as prescribed by the *Canada Pension Plan*; R.S.C. 1985, c. C-8

(b) 6.2 per cent of the amount of salary that exceeds the Year's Basic Exemption and does not exceed the Year's Maximum Pensionable Earnings as prescribed by the *Canada Pension Plan*; and

(c) 8 per cent of the amount of salary in excess of the Year's Maximum Pensionable Earnings as prescribed by the *Canada Pension Plan*.

(2) In addition to the contribution required by subsection (1), every member employed in the Ontario Provincial Police Force shall contribute to the Fund an amount equal to 2 per cent of the salary paid to him or her for the calendar year. Additional contribution

(3) The contributions to be made by a member to the Fund shall be deducted from the member's salary by the person who pays the member's salary, and shall be paid to the credit of the Fund within fifteen days from the date the contribution was deducted or within such longer time as the Board authorizes in writing. Deduction of contributions

(4) A member shall be given credit in the Plan for the time in respect of which contributions to the Fund are made by or on behalf of the member. Credit for contributions

(5) A member may cease to contribute to the Fund on or after attaining sixty-five years of age. When no contribution required

(6) Interest calculated as determined by the Board shall be credited to each member in each year of the Plan on the amount of contributions, including interest previously credited to the member, standing to the member's credit in the Fund. Interest

7.—(1) Unless otherwise expressly stated in the Plan, for each month the employer shall pay into the Fund an amount equal to the amount of contributions paid into the Fund by or on behalf of members in that month. Contributions by employer

(2) If the salary of members who are contributing to the Fund is paid by a board, commission, foundation, agency, branch or division that has a special fund or appropriation designated or granted by the Lieutenant Governor in Council or the Assembly for the payment of the employer's contributions under the Plan, contributions required to be made by the employer shall be made from that fund or appropriation in accordance with such formula as may be determined by the Minister for the purpose. Special funds

(3) Any amount in the Fund that is indicated by an actuarial valuation for the purpose of the Plan to be surplus to the requirements of the Plan while it continues in existence may, at the direction of the Minister, be applied to the payment of the contributions to be made by the employer under subsection (1) for so long as there is no going concern unfunded actu- Surplus may reduce employer contributions

arial liability or solvency deficiency, as defined in subsection 8 (1) of this Act, in the Plan.

- Surplus (4) Any amount in the Fund that is indicated by an actuarial valuation for the purpose of the Plan to be surplus to the requirements of the Plan while it continues in existence or upon its wind up may, to the extent permitted by the *Pension Benefits Act, 1987*, be withdrawn by the employer from the Fund.
- 1987, c. 35
- Deficiency (5) If in any year the amount of cash and assets capable of sale in the Fund is insufficient to meet the payments out of the Fund in the year after the sale of the assets capable of sale, the Treasurer shall pay from the Consolidated Revenue Fund an amount sufficient to make up the deficiency.
- Limitation (6) Subsection (5) ceases to apply if an agreement mentioned in subsection 6 (5) of this Act is in force.
- Unfunded liabilities (7) Subject to this Act, the employer shall pay into the Fund the amount indicated in an actuarial valuation to be required to meet any unfunded liabilities of the Plan.
- Leave of absence with pay 8.—(1) If a member has been granted a leave of absence from employment and continues to receive a part or all of his or her salary during the leave, the member shall make the contributions required by section 6.
- Leave of absence without pay (2) If a member is granted a leave of absence from employment and receives no salary during the leave, no credit shall be given to the member in the Plan for the period of the leave of absence unless the member contributes to the Fund in accordance with section 11.
- Continued membership on release from employment 9.—(1) A member who is released from employment and who is designated by the Lieutenant Governor in Council for the purpose of this section continues to be entitled to contribute to the Fund in accordance with this section until the end of the month in which the member becomes eligible for a pension under section 15, or until the expiration of five years from the member's release from employment, whichever first occurs.
- Contributions (2) Contributions by or on behalf of a member mentioned in subsection (1) shall be made on the basis of the member's annual salary rate immediately before the member was released from employment.
- Long term income protection R.S.O. 1980, c. 418 10.—(1) In this section, "long term income protection plan" means the Long Term Income Protection Plan from time to time applicable to members who are public servants, as defined in the *Public Service Act*, to mitigate the loss of income resulting from a lengthy disability, and includes any plan that applies to members who are not public servants if the Board considers the plan to be substantially similar to the Long Term Income Protection Plan applicable to public servants.
- Contribution on behalf of disabled member (2) If a member qualifies for a benefit under a long term income protection plan as a result of a disability incurred on or after the 1st day of July, 1974, the employer that employed the member on the date when the member qualified for the benefit shall, subject to subsection (6), contribute to the Fund on behalf of the member the amounts set out in subsections (3), (4) and (5) while the member continues to qualify for the benefit.
- Amount (3) Subject to subsection (4), the contributions mentioned in subsection (2) shall be calculated in accordance with section 6 and paid on the annual salary rate of the member immediately before the disability was incurred in respect of which he or she qualifies for a benefit.



(4) If the member mentioned in subsection (2) was, in the opinion of the Board, employed on a part-time basis in the month before the disability was incurred, the contributions mentioned in subsection (2) shall be calculated in accordance with section 6 and paid only for that part of each month in which the member continues to qualify for the benefit that is equal to the ratio that, in the twelve months ending on the last day of the month immediately preceding the month when the disability was incurred, the member's part-time employment is of full-time employment in the position occupied by the member or in a comparable position.

Part-time  
employment

(5) The annual salary rate on which contributions under this section are based shall be increased in each year following the year in which the member first qualified for a benefit by the same percentage as would be applicable if the annual salary rate of the member immediately before the cessation of employment as a result of disability were increased in each subsequent year during which the member remains entitled to benefits under the Long Term Income Protection Plan in the same manner as an adjusted pension is increased in each year by the adjustment for inflation under section 24.

Increased  
contribution

(6) Subsections (2), (3), (4) and (5) continue to apply whether or not the member is in receipt of the benefit under the Long Term Income Protection Plan, but those subsections cease to apply when the member ceases to be a member, accrues thirty-five years of credit in the Plan or attains sixty-five years of age, whichever first occurs.

When  
contributions  
cease

(7) A person on whose behalf contributions are made under subsection (2) continues to be a member of the Plan and to accrue credit in the Plan for the time in respect of which contributions are made on his or her behalf under this section.

Continued  
membership

(8) The annual salary rate on which contributions are based under this section shall be included in the computation of the average annual salary of a member on whose behalf contributions are made under this section.

Average  
annual salary

11.—(1) On such terms and conditions as are fixed by the Board, a member may purchase credit in the Plan,

Prior service  
with the  
Crown, etc.

(a) for a period of active service during World War II or the Korean War in His or Her Majesty's naval, army or air forces, in the Canadian or British merchant marine, or in any naval, army or air force that was allied with His or Her Majesty's forces and that is designated by order of the Lieutenant Governor in Council;

(b) for a period of service with an employer who contributed to the Fund or a predecessor fund throughout the period, and for which the member has no credit in the Plan and no claim for pension benefits from the Plan;

(c) for a period of employment by a person who did not contribute to the Fund or a predecessor fund for the period, if the period is before the member's becoming a member and if,

(i) during that period of service, the person provided to employees a pension plan that is or was a pension plan registered under the *Income Tax Act* (Canada), and

R.S.C. 1952,  
c. 148

(ii) the period, if any, for which credit in the plan referred to in subclause (i) was given to the member is reduced by the period for which credit in the Plan is purchased so that credit in the Plan is not given for any part of the period for which credit is retained in the plan referred to in subclause (i);



(d) for a leave of absence without pay for more than one month for special or educational purposes; or

(e) for a leave of absence without pay for more than one month because of illness, pregnancy or adoption of a child.

Payment

(2) To purchase credit referred to in clause (1) (c), a member shall pay to the Fund the amount determined by the Board on the recommendation of the actuary to be equal to the actuarial value of the additional expected benefits to which the member will become entitled because of obtaining the credit.

Idem

(3) To purchase the credit referred to in clause (1) (b) or (e), a member shall pay to the Fund an amount equal to the product of,

(a) the annual salary rate of the member on the date when the member's written application containing all information required by the Board for the purchase of the credit is received by the Board;

(b) the contribution rates determined under subsection 6 (1); and

(c) the length in years of the period of prior service for which credit is purchased.

Idem

(4) Despite subsection (3), if any payment has been made from the Fund or a predecessor fund in respect of the service for which credit is being purchased under clause (1) (b), and if the total amount paid, including interest thereon at such rate as the Board determines, exceeds the amount determined under subsection (3) for the purchase of that credit in the Plan, the member making the purchase shall pay the higher amount.

Idem

(5) To purchase credit referred to in clause (1) (a) or (d), a member shall pay to the Fund an amount equal to the product of,

(a) the annual salary rate of the member on the date when the member's written application containing all information required by the Board for the purchase of the credit is received by the Board;

(b) twice the contribution rates determined under subsection 6 (1); and

(c) the length in years of the period of prior service for which credit is purchased.

Limitation

(6) Any credit referred to in subsection (1) may be purchased only if application therefor is made to the Board in writing within twenty-four months after the latest of,

(a) the day on which the member for whom credit is to be purchased became a member of the Plan;

(b) the last day of the most recent continuous period for which credit is being purchased; or

(c) the 31st day of December, 1989.

Instalments

(7) If the amount payable by a member to purchase credit under this section exceeds \$500, the amount may be paid in such number of instalments of principal and interest over a period of not more than ten years as the Board permits in accordance with terms and conditions established for instalment payments and for the completion of payment on the death or retirement from employment of the member.

Matching  
payments  
required

(8) The employer is not required to pay to the Fund an amount equal to a payment made by any person under subsection (2), (5) or section 36.

12. The Board shall cause a record to be kept of each member's contributions to the Fund, of the total period of service for which a member has credit in the Plan, and of the annual salary rates of each member while a member and of all other information necessary for the administrative, actuarial and financial requirements of the Plan.

Contribution,  
salary and  
service  
record

13.—(1) A member who has not attained sixty-five years of age and who ceases to be a member of the Plan before completing a continuous period of twenty-four months of membership and with credit in the Plan of less than two years is entitled to the refund provided by either or both of subsections (12) and (13), as the case requires.

Refunds  
before  
twenty-four  
months  
membership

(2) A member who has not attained sixty-five years of age and who ceases to be a member of the Plan after completing a continuous period of twenty-four months of membership or with two or more years of credit in the Plan and before completing ten years of continuous membership and with credit in the Plan for less than ten years is entitled to the refund provided by subsection (12).

Refund  
before ten  
years  
membership

(3) A member who, for reasons other than the member's death or disability, ceases to be a member of the Plan before attaining forty-five years of age and after completing a continuous period of ten or more years of membership or with ten or more years of credit in the Plan is entitled to the refund provided by subsection (12) if the member does not elect a deferred pension in respect of his or her credit in the Plan for service or membership prior to the 1st day of January, 1987.

Refund  
before age  
forty-five

(4) A member who has attained sixty-five years of age and who ceases to be a member of the Plan before completing a continuous period of twenty-four months of membership and with credit in the Plan of less than two years is entitled to the refund provided by either or both of subsections (12) and (13), as the case requires, and to the payment provided by subsection (14).

Refund after  
age sixty-five

(5) A member who has attained sixty-five years of age and who ceases to be a member of the Plan after completing a continuous period of twenty-four months of membership or with two or more years of credit in the Plan and before completing ten years of continuous membership and with credit in the Plan for less than ten years is entitled to the refund provided by subsection (12) and to the payment provided by subsection (14).

Idem

(6) When the cessation of membership referred to in subsection (1), (2), (4) or (5) occurs because of the death of the member, and the member is not survived by a child or children under eighteen years of age or by a spouse from whom the member is not living separate and apart at the member's death, the refund mentioned in those subsections, but not a payment described in subsection (14), shall be paid to the member's estate.

Refund on  
death where  
no survivor

(7) If a member dies while a member of the Plan and after completing a continuous period of ten or more years of membership or with ten or more years of credit in the Plan and, if the member is not survived by a child or children under eighteen years of age or by a spouse from whom the member is not living separate and apart at the member's death, the member's estate is entitled to be paid the refund provided by subsection (12).

Idem

(8) Despite subsections (1), (2), (4) and (5), if the cessation of membership referred to in those subsections occurs because of the death of the member, and the member is survived by a child or children under eighteen years of age or by a spouse from whom the member is not living separate and apart, the spouse, or if there is no such spouse surviving, the child or children under eighteen years of age is or are, as the case requires, entitled,

Refund on  
death to  
survivor

- (a) if the death is a cessation of membership referred to in subsection (1) or (4), to the refund provided by either or both of subsections (12) and (13) and to the payment provided by subsection (14); or
- (b) if the death is a cessation of membership referred to in subsection (2) or (5), to the refund provided by subsection (12) and to the payment provided by subsection (14).

Refund when  
contributions  
exceed  
pension

(9) The amount, if any, by which the total of contributions made to the Fund by or on behalf of a member and the interest credited to the member under subsection 6 (6) exceeds the total payments made from the Fund to the member as a former member and as a survivor pension to the former member's spouse or child or children as a result of the former member's death shall be paid to the former member's estate.

Idem

(10) Despite subsection (9), if a former member who is in receipt of a pension dies survived by a child or children under eighteen years of age or by a spouse from whom the former member is not living separate and apart, and if none of them is entitled to a survivor pension under the Plan as a result of the death of the former member, the amount, if any, by which the aggregate of such of the amounts mentioned in subsections (12) and (13) as are applicable and of the additional amount mentioned in subsection (14) exceeds the total payments made from the Fund to the former member shall be paid to the surviving spouse, or if there is no surviving spouse, to the child or children, if any, of the former member under eighteen years of age at the former member's death.

Refund for  
disabled  
member

(11) Despite subsections (1), (2), (4) and (5), a member with credit in the Plan for less than ten years and with less than ten years of continuous membership in the Plan who ceases to be a member because of a mental or physical incapacity that is found by the Board to have rendered the member unable to perform his or her duties is entitled to be paid from the Fund the amount, if any, by which,

- (a) the aggregate of such of the amounts mentioned in subsections (12) and (13) as are applicable and of the additional amount mentioned in subsection (14),

exceeds,

- (b) the aggregate of the amount of the commuted value of any pension benefit for which the member is eligible and the amount of any refund to which the member is entitled under subsection (15).

Pre-1987  
service  
refund

(12) A person entitled to a refund provided by this subsection is entitled to be paid from the Fund an amount equal to the total of the contributions made to the Fund or a predecessor fund by or on behalf of the member in respect of employment or service for any period before the 1st day of January, 1987, together with the interest credited in the Fund to the member.

Post-1986  
service  
refund

(13) A person entitled to a refund provided by this subsection is entitled to be paid from the Fund an amount equal to the total of the contributions made to the Fund or a predecessor Fund by or on behalf of the member in respect of employment or service for any period after the 31st day of December, 1986, together with interest credited in the Fund to the member.

Additional  
payment

(14) A person entitled to a payment provided by this subsection is entitled to be paid from the Fund an additional amount equal to,

- (a) the amount of a refund to which the person is also entitled under either or both of subsections (12) and (13),



less,

- (b) any portion of the amount of the refund that is attributable to a payment made by the person under subsection 11 (2) or (5) or section 36 and interest credited to the member in respect thereof.

(15) The amount by which the total of the contributions, other than contributions made under subsection 11 (2) or (5) or section 36, made to the Fund by or on behalf of a member in respect of employment or service for any period after the 31st day of December, 1986 and the interest credited to the member in the Fund on those contributions exceeds one-half of the commuted value, excluding credit in the Plan for contributions made under subsection 11 (2) or (5) or section 36 in respect of employment or service after the 31st day of December, 1986, of the pension or deferred pension in respect of that employment or service to which the member is entitled on ceasing to be a member shall be refunded to the former member. 50 per cent rule

(16) The amount by which the total of the payment to the Fund made under subsection 11 (2) or (5) or section 36 and the interest credited to the member on that payment in accordance with the *Pension Benefits Act, 1987* exceeds the commuted value of the credit in the Plan that was purchased with that payment and that is included in a deferred pension that the member has elected to receive under subsection 16 (6) shall be refunded to the former member. Excess past service payments refunded 1987, c. 35

(17) A payment or refund to be made under this section shall be paid in a lump sum payment. Lump sum payments

(18) A refund made under this section, other than subsection (15), reduces the member's or former member's credit in the Plan by the period of time in respect of which the refund is calculated. Credit reduced

(19) For the purpose of subsections (6), (7), (8) and (9), a child shall not be deemed to have attained eighteen years of age if the child would not, for the purpose of section 23, be deemed to have attained that age. Interpretation

14.—(1) Every member with ten or more years of credit or with ten or more years of continuous membership in the Plan who is found by the Board to be unable to perform his or her duties by reason of mental or physical incapacity is entitled to a disability pension under this section upon applying therefor to the Board and upon resigning from employment. Disability pension

(2) The Board may at any time review the case of any former member to whom a pension under subsection (1) is paid and, if, in the opinion of the Board, the former member has recovered sufficiently to perform his or her former duties, or to perform other duties in the public service, the Board shall report the case to the Human Resources Secretariat and to the ministry, agency or other organizational unit where the former member was employed immediately before his or her disability, and the former member shall be considered for re-employment. Review by Board

(3) If a former member to whom a pension under this section is paid is offered re-employment after the review referred to in subsection (2), the former member ceases to be entitled to receive payment of any further pension under this section whether or not the offer of re-employment is accepted. Re-employment

(4) The termination of the payment of a pension under this section in accordance with subsection (3) does not affect a former member's right to apply for a pension for which he or she is eligible under any other provision of the Plan. Other pension entitlement not affected



Pension at  
age sixty-five

15.—(1) Every member who has twenty-four or more months of continuous membership in the Plan or who has two or more years of credit in the Plan and who ceases to be a member of the Plan on or after attaining sixty-five years of age is entitled to a pension computed in accordance with the Plan, except that, if the member has less than ten years of continuous membership and has credit in the Plan for less than ten years, the pension shall be computed only on his or her credit in the Plan for employment or service after the 31st day of December, 1986.

Pension at  
age sixty

(2) Every member who has at least twenty years of credit in the Plan and who ceases to be a member of the Plan on or after attaining sixty years of age is entitled to a pension computed in accordance with the Plan.

Ninety-year  
rule

(3) Every member who has credit in the Plan for a period of time that, when added to the member's age on the date the member ceases to be a member of the Plan, totals at least ninety years is entitled to a pension computed in accordance with the Plan.

Retirement  
from O.P.P.

(4) Every member who has at least thirty years of credit in the Plan, who is a member of the Ontario Provincial Police Force when he or she ceases to be a member of the Plan, and who ceases to be a member of the Plan on or after attaining fifty years of age is entitled to a pension computed in accordance with the Plan.

Payment

(5) Payment of a pension to which a member is entitled under this section shall commence in the month following the month when the member ceases to be a member of the Plan.

Deferred  
pension

16.—(1) Every member who has twenty-four or more months of continuous membership in the Plan or two or more years of credit in the Plan, who ceases to be a member, and who is neither in receipt of a pension provided for in section 14 nor entitled to a pension provided for in section 15 is entitled to a pension computed in accordance with the Plan, except that, if the member has less than ten years of continuous membership and has credit in the Plan for less than ten years, the pension shall be computed only on his or her credit in the Plan for employment or service after the 31st day of December, 1986.

Payment of  
pension  
under  
subs. (1)

(2) Payment of the pension provided for in subsection (1) shall commence in the month following the month when the former member will attain sixty-five years of age or, if the former member so elects in writing to the Board, payment of the pension shall, subject to the reductions mentioned in section 17, commence in the month following any month that is not earlier than the month when the former member will attain fifty-five years of age or later than the month when the former member will attain sixty-five years of age.

Pre-1966  
credit

(3) Every member who, on ceasing to be a member, has credit in the Plan that is equal to a period of time commencing before the 1st day of January, 1966 and ending with the day the member ceases to be a member, and who is neither in receipt of a pension provided for in section 14 nor entitled to a pension provided for in section 15, is entitled to a pension computed in accordance with the Plan.

Payment of  
pension  
under  
subs. (3)

(4) Payment of the pension provided for in subsection (3) shall commence in the month following the month when the former member will attain sixty years of age or, if the former member so elects in writing to the Board, payment of the pension shall, subject to the reductions mentioned in section 17, commence in the month following any month that is not earlier than the month when the former member will attain fifty years of age or later than the month when the former member will attain sixty years of age.

(5) An election made under subsection (2) or (4) may, with the approval of the Board, be revoked by the member or former member and a fresh election in writing to the Board may be made if the commencement of payment therein provided for is neither earlier than the month following the month when the fresh election is delivered to the Board nor earlier than is permitted by subsection (2) or (4), whichever is applicable, and is not later than the latest month permitted by subsection (2) or (4), whichever is applicable, but no election may be revoked after payment of the pension is due to commence.

Revocation  
of election

(6) A former member who is entitled to a pension under subsection (1) or (3) and who has not attained fifty-five years of age in the case of a pension mentioned in subsection (1) or has not attained fifty years of age in the case of a pension mentioned in subsection (3) may require the commuted value of the pension to be paid, subject to section 43 of the *Pension Benefits Act, 1987* and to the regulations made under that Act,

Transfer of  
commuted  
value of  
pension

1987, c. 35

(a) to the pension fund of another pension plan that agrees to accept the payment;

(b) into a retirement savings arrangement prescribed under the *Pension Benefits Act, 1987*; or

(c) for the purchase for the former member of a deferred life annuity under which payments will not commence before the former member attains fifty-five years of age, if the pension the commuted value of which is paid is mentioned in subsection (1), or fifty years of age, if the pension the commuted value of which is paid is mentioned in subsection (3), and if the contract to purchase the annuity meets the requirements prescribed under the *Pension Benefits Act, 1987*.

17.—(1) Subject to subsections 15 (1) and 16 (1) and to the other subsections of this section, the annual amount of every pension payable to a former member is 2 per cent of the former member's average annual salary multiplied by the former member's years of credit in the Plan, including any fraction of a year, to a maximum of thirty-five years.

Computation  
of pension

(2) The annual amount of pension payable to a former member who, on ceasing to be a member, has credit in the Plan that is equal to a period of time commencing before the 1st day of January, 1966 and ending with the day the member ceases to be a member, who has not attained sixty-five years of age, and while the former member is not in receipt of a disability pension under the *Canada Pension Plan* shall be computed in accordance with subsection (1) as though the reference to sixty consecutive months in determining the former member's average annual salary were a reference to thirty-six consecutive months and shall be paid, subject to the reduction required by subsection (5), until the former member attains sixty-five years of age or receives a disability pension under the *Canada Pension Plan*, and upon the occurrence of either of those events, the former member's pension shall be recomputed in accordance with subsection (1) without reference to this subsection.

Pension for  
pre-1966  
credit

R.S.C. 1985,  
c. C-8

(3) When a former member,

CPP  
reduction

(a) who is in receipt of a pension attains sixty-five years of age or receives a disability pension under the *Canada Pension Plan*; or

(b) who is not in receipt of a pension commences to receive a pension on or after attaining sixty-five years of age,

the annual amount of the pension computed under subsection (1) shall be reduced by the product of,

(c) 0.7 per cent of the lesser of,

(i) the former member's average annual salary, and

(ii) the former member's average year's maximum pensionable earnings; and

(d) the number of years, including any fraction of a year, of the former member's credit in the Plan for service on or after the 1st day of January, 1966 to a maximum of thirty-five years.

Early  
retirement  
reduction

(4) The annual amount of every pension provided for in subsection 16 (1) shall, after computation in accordance with subsection (1), be reduced by five-twelfths of 1 per cent thereof for each month in the period commencing with the first day of the month in which payment of the pension is to commence and ending with the last day of the month when the former member will attain sixty-five years of age, and when the reduction required by subsection (3) is calculated, the reduction required by this subsection applies only to the annual amount of pension payable after giving effect to the reduction required by subsection (3) and shall, if applicable, be recalculated on that basis.

Idem, pre-  
1966 credit  
R.S.O. 1980,  
c. 419

R.S.C. 1985,  
c. C-8

(5) The annual amount of every pension provided for in subsection 16 (3) shall, after computation in accordance with subsection (2), be reduced as required by the *Public Service Superannuation Act*, as it read on the 31st day of December, 1965, and the reduction shall continue until the former member attains sixty-five years of age or receives a disability pension under the *Canada Pension Plan* and, upon the occurrence of either of those events, the former member's pension shall be recomputed in accordance with subsection (1) and reduced as required by subsection (3), and the annual amount of pension payable after that reduction shall be further reduced by five-twelfths of 1 per cent thereof for each month in the period commencing with the first day of the month in which payment of the pension commenced and ending with the last day of the month when the former member attained sixty years of age.

Guarantee  
for pre-1966  
credit

(6) If the annual amount of pension computed in accordance with subsection (1),

(a) less the reduction required by subsection (3) and, if applicable, subsection (5); and

(b) plus,

(i) the annual amount of any disability pension to the former member from the *Canada Pension Plan*, or

(ii) the annual amount of pension that the former member would have received from the *Canada Pension Plan* if that pension commenced only on the former member's attaining sixty-five years of age,

R.S.O. 1980,  
c. 419

other than the part of that pension derived from contributions made to the *Canada Pension Plan* after the former member ceased to be a member of the Plan,

that is payable to a former member who,

(c) has credit in the Plan that is equal to a period of time commencing before the 1st day of January, 1966 and ending with the day the former member ceased to be a member of the Plan; and



- (d) has attained sixty-five years of age or is receiving a disability pension under the *Canada Pension Plan*,

is less than the annuity or annual amount of allowance that would be payable to the former member under the *Public Service Superannuation Act*, as it read on the 31st day of December, 1965, in respect of the former member's credit in the Plan, the amount of the difference shall be added to the annual amount of the pension computed in accordance with subsection (1) that is payable after making the reductions required by subsection (3) and, if applicable, subsection (5).

R.S.O. 1980,  
c. 419

(7) There shall be excluded from the period of time mentioned in subsection 16 (3) and subsections (2) and (6) any period of time for which a former member has credit in the Plan and for which the former member was employed by a person who did not, during or after that period of time, contribute to the Fund or a predecessor fund under the Plan or the *Public Service Superannuation Act*.

Exception to  
guarantee

(8) If, on the first day of the month when payment of the pension to a former member is to commence, the former member has a spouse from whom the former member is not living separate and apart, the annual amount of the former member's pension computed in accordance with this section, other than this subsection, shall be reduced in such manner as the Board approves to reflect the following rules:

Reduction  
for survivor  
pension

1. Determine the present value of the pension payable to the former member and the spouse on the assumption that a survivor pension is payable to the spouse equal to one-half of the former member's pension computed in accordance with this section, other than this subsection, that the survivor pension is payable for the lifetime of the surviving spouse, and that, if the spouse was not the spouse of the former member when the former member ceased to be a member of the Plan, no survivor pension is payable to the spouse.
2. Determine the reduction in the amount of the former member's annual amount of pension computed in accordance with this section, other than this subsection, that is required in order to provide to the spouse of the former member, at the present value determined under paragraph 1, the survivor pension provided by subsection 19 (1).
3. Reduce the annual amount of the former member's pension computed in accordance with this section, other than this subsection, by the amount of the reduction determined under paragraph 2.

(9) If a computation under this section involves a part of a year, the part shall be determined on the basis of full months, and,

Computation  
of partial  
year

- (a) any part of a month that is less than fifteen days shall be disregarded; and
- (b) any part of a month that is fifteen days or more shall be deemed to be a month.

**18.—**(1) The Board is not required to commence payment of a pension to which a person is entitled under the Plan until a written application is delivered to the Board setting out such information as is prescribed and such information as is, in the opinion of the Board, necessary to establish the person's entitlement to the pension and the amount thereof.

Application  
for pension

(2) Unless otherwise expressly provided in this Plan, a pension,

Payment

- (a) is payable in monthly instalments for life; and



- (b) ceases to be payable after the month when the person in receipt of the pension dies or entitlement to payment of the pension ceases.

Commutation  
of pension

- (3) If a person is entitled to be paid a pension the annual amount of which, before the reductions mentioned in subsections 17 (4) and (5), is not more than,

R.S.C. 1985,  
c. C-8

- (a) 2 per cent of the Year's Maximum Pensionable Earnings as prescribed by the *Canada Pension Plan*; or

1987, c. 35

- (b) such greater amount as is permitted by the *Pension Benefits Act*, 1987,

in the year when the member for whose credit in the Plan the pension is payable ceased to be a member of the Plan, the Board may pay the commuted value of the pension to the person.

Pension to  
surviving  
spouse

19.—(1) Subject to subsections (2) and (3), if, on the first day of the month in which payment of a pension to a former member is to commence, the former member has a spouse from whom the former member is not living separate and apart, the spouse is, if he or she survives the death of the former member, entitled to be paid for his or her lifetime an annual amount of pension equal to 60 per cent of the annual amount of pension that the former member is entitled to receive in the month when the former member dies, and payment thereof shall commence in the month following the month when the former member dies.

Death before  
age sixty-five

(2) If a survivor pension under subsection (1) or subsection 21 (1) is payable as the result of the death of a former member before attaining sixty-five years of age and before the reduction of his or her pension in accordance with subsection 17 (3), the annual amount of pension on which the survivor pension is based shall be reduced in accordance with that subsection as though the former member had attained sixty-five years of age immediately before his or her death.

Waiver of  
survivor  
pension

(3) Despite subsection (1), a member or former member and the spouse of the member or former member from whom the member or former member is not living separate and apart,

- (a) may elect that the spouse receive a survivor pension under subsection (1) of 50 per cent rather than 60 per cent if the member or former member and the spouse are not or were not living separate and apart when the member or former member ceases or ceased to be a member of the Plan; or

- (b) may waive the spouse's entitlement to a survivor pension under subsection (1) if the member or former member and the spouse are or were living separate and apart when the member or former member ceases or ceased to be a member of the Plan,

by delivering to the Board within twelve months prior to the month when payment of the pension to the member or former member is to commence a written direction in the form approved by the Board and signed by both of them or a certified copy of a domestic contract, within the meaning of Part IV of the *Family Law Act*, 1986, containing the election or waiver.

1986, c. 4

Revocation  
of waiver or  
election

(4) Persons who have delivered a waiver or election under subsection (3) may jointly cancel the waiver or election by written notice of cancellation signed by them and delivered to the Board before the month when the pension is to commence to be paid to the member or former member.

(5) The reduction required by subsection 17 (8) shall not be made if an election or waiver made as permitted by subsection (3) is in force in the month when the pension is to commence to be paid to the member or former member. Reduction not to be made

(6) On the death of a spouse to whom a survivor pension is paid under this section, section 20 or 23, an annual amount of pension equal to that survivor pension is payable to or among such of the child or children of the former member on whose death the survivor pension became payable to the spouse as are, at the death of the spouse, under eighteen years of age until each child attains that age or dies under that age, and the share of the children who attain that age or die under that age accrues to the child or children, if any, remaining under that age. Survivor pension to child on death of spouse

20.—(1) The amount of the survivor pension payable under section 19 may be increased to 65 per cent, 70 per cent or 75 per cent of the pension of the former member, after taking into account the reduction required by subsection (4), by a written direction signed by the member or former member on whose pension the survivor pension is based specifying the percentage to which the survivor pension is to be increased, and the direction shall be delivered to the Board at least two years prior to the month when payment of the pension to the member or former member is to commence. Increased survivor pension

(2) The Board shall accept a direction mentioned in subsection (1) that is delivered to the Board after the time mentioned in that subsection and before the month when the pension is to commence to be paid to the member or former member if the Board is satisfied that the member or former member is in good health having regard to his or her age. Idem

(3) A direction delivered in accordance with subsection (1) or accepted in accordance with subsection (2) is of no effect if the member who gives it dies while a member of the Plan. When direction not valid

(4) The annual amount of pension computed in accordance with section 17 payable to a former member who has given a valid direction delivered in accordance with subsection (1) or accepted in accordance with subsection (2) shall be actuarially reduced in a manner approved by the Board to reflect the increased survivor pension specified in the direction and the increased survivor pension shall be paid in lieu of that provided for in section 19. Actuarial reduction of pension

(5) A person who gives a direction mentioned in subsection (1) or (2) may revoke the direction by a written revocation delivered to the Board before the month when payment of the person's pension is to commence. Revocation of direction

21.—(1) Subject to subsection 19 (2), a former member who, after commencing to receive a pension and when the former member has no spouse entitled to a survivor pension under section 19, becomes the spouse of a person who would not be entitled on the death of the former member to a survivor pension under section 19 may in writing direct the Board to pay to the person, if he or she survives the death of the former member, a survivor pension for life of 50 per cent, 55 per cent, 60 per cent, 65 per cent, 70 per cent or 75 per cent of the pension received by the former member immediately before his or her death. Post-retirement marriage

(2) A direction mentioned in subsection (1) must be delivered to the Board, Time limit

- (a) within ninety days after the date on which the former member became the spouse of the person to whom the survivor pension is directed to be paid; or

- (b) if immediately before the person becomes the spouse of the former member there is a child of the former member who would be entitled on the former member's death to receive a pension, within ninety days after the date the child ceases to be entitled to receive the pension.

**Exception**

(3) The Board may accept a direction mentioned in subsection (1) and delivered after the time mentioned in subsection (2) if the Board is satisfied that the former member giving the direction is in good health having regard to his or her age.

**Actuarial reduction of pension**

(4) The annual amount of pension payable to a former member who has given a valid direction in accordance with this section shall be actuarially reduced in a manner approved by the Board to reflect the survivor pension directed to be paid and, subject to subsection (5), the survivor pension shall be paid in the percentage specified in the direction to the spouse if he or she survives the death of the former member.

**Prior interest of child**

(5) A survivor pension under this section shall not be paid while there is a child of the deceased former member entitled to receive a pension as a result of the death of the former member.

**Survivor pension on death before payment of pension**

**22.—**(1) If a member who has twenty-four or more months of continuous membership or two or more years of credit in the Plan,

(a) dies while a member of the Plan; or

(b) dies after ceasing to be a member of the Plan and before the beginning of the month when payment of his or her pension is to commence,

the commuted value, as determined by the Board, of the member's or former member's pension benefit determined immediately prior to his or her death and on the basis only of his or her credit in the Plan for employment or service after 1986 is payable,

(c) to the spouse of the member or former member from whom the member or former member is not living separate and apart;

(d) if no payment under clause (c) can be made, or if the member or former member has no spouse who survives the date of death of the member or former member, to the beneficiary designated in accordance with this section by the member or former member; or

(e) if no payment can be made under clause (c) or (d), to the estate of the member or former member.

**Payment to spouse**

(2) Subject to subsection (3), the commuted value payable under subsection (1) to the spouse of a member or former member shall be paid in the form of an immediate pension for the lifetime of the spouse, and the commuted value of the pension so payable shall be equal to the commuted value payable under subsection (1), and payment thereof shall commence in the month following the month when the member or former member dies.

**Election by spouse**

(3) The spouse to whom an immediate pension is payable under subsection (2) may, in writing in the approved form delivered to the Board in the time fixed by the Board, elect to receive the commuted value payable under subsection (1) in the form of,

(a) a single lump sum payment equal to the commuted value payable under subsection (1); or



(b) a deferred pension the commuted value of which is equal to the commuted value payable under subsection (1).

(4) A member or former member and his or her spouse may, by written waiver in the approved form delivered to the Board in the time fixed by the Board, waive the spouse's entitlement under subsection (1) and, while the waiver is in effect, that subsection shall be applied as if the member or former member does not have a spouse on the date of the death of the member or former member.

Waiver of spouse's entitlement

(5) The designation of a beneficiary for the purpose of this section shall be made and delivered to the Board in such form and manner as the Board requires.

Designation of beneficiary

23.—(1) If a member who has ten or more years of credit in the Plan or has ten or more years of continuous membership in the Plan dies while a member of the Plan, or dies after ceasing to be a member of the Plan and before the beginning of the month when payment of his or her pension is to commence, an annual amount of pension equal to one-half of the member's or former member's pension computed in accordance with section 17 as though the member or former member had attained sixty-five years of age and on the basis only of his or her credit in the Plan for employment or service before 1987 is payable,

Survivor pension for pre-1987 credit

(a) to the spouse of the member or former member from whom the member or former member, at his or her death and at the cessation of his or her membership in the Plan, was not living separate and apart; or

(b) if no payment under clause (a) can be made, to or among such of the child or children of the member or former member as are, at the death of the member or former member, under eighteen years of age until each child attains that age or dies under that age, and the share of each of the children who attains that age or dies under that age accrues to the child or children, if any, remaining under that age.

(2) Payment of a survivor pension under this section shall commence in the month following the month when the member or former member dies, and the survivor pension payable to a spouse under this section is payable for the life of the spouse.

Payment

(3) For the purpose of this section and subsection 19 (6), a child who has attained eighteen years of age shall be deemed not to have attained that age if, since attaining that age, the child has been, in the opinion of the Board, continuously in full-time attendance at either or both of,

Exception for higher education

(a) a secondary school; or

(b) for five years following secondary school, a post-secondary educational institution that is recognized as such by the Board.

24.—(1) In the formulas in this section,

Inflation adjustment

"A" is the carry forward determined for the immediately preceding year,

"B" is the basic ratio for the year,

"C" is the adjustment ratio for the year,

"D" is the basic ratio for the year next following the year when the member for whose credit in the Plan the pension in respect of which



the formula is applied is payable ceased to be a member of the Plan, and shall be calculated to a maximum of 1.080 or to a minimum of 1.000, and

"E" is the number of full months in the year that are after the month in the year when the member for whose credit in the Plan the pension in respect of which the formula is applied is payable ceased to be a member of the Plan.

#### Definitions

#### (2) In this section,

"accumulated adjustment ratio", for the pension of a person, means the product of the multiplication of all adjustment ratios for the years in the period commencing with the year when the member for whose credit in the Plan the pension is payable ceased to be a member of the Plan and ending with the year for which the accumulated adjustment ratio is being determined;

"adjustment ratio", for the pension of a person, means,

- (a) for any year before the year 1976 and for the year when the member for whose credit in the Plan the pension is payable ceased to be a member of the Plan, 1.000,
- (b) if the member for whose credit in the Plan the pension is payable ceased to be a member of the Plan in or after the year 1975, for the year next following the year when the member for whose credit in the Plan the pension is payable ceased to be a member of the Plan, the ratio determined by the formula

$$"[(D - 1.000) \times E / 12] + 1.000", \text{ and}$$

- (c) for the later of the year 1976 and the second year after the year when the member for whose credit in the Plan the pension is payable ceased to be a member of the Plan and for any subsequent year, the ratio determined by the formula " $A + B$ " calculated to a maximum of 1.080 or to a minimum of 1.000;

"basic ratio", for a year, means the ratio expressed to three decimal places that the average for the Consumer Price Index over the last twelve months of the twenty-four-month period ending with the 30th day of September in the immediately preceding year bears to the average for the Consumer Price Index over the first twelve months of that period;

"carry forward", with respect to the pension of a person, means,

- (a) for any year before the year 1976, for the year when the member for whose credit in the Plan the pension is payable ceased to be a member of the Plan and for the year next following that year, nil, and
- (b) for the later of the year 1976 and the second year following the year when the member for whose credit in the Plan the pension is payable ceased to be a member of the Plan and for any subsequent year, the positive or negative number determined by the formula " $A + B - C$ ";

"Consumer Price Index" means the Consumer Price Index for Canada as published by Statistics Canada under the authority of the *Statistics Act* (Canada);

R.S.C. 1985,  
c. S-19

R.S.O. 1980, "member" includes a contributor within the meaning of the *Public Service Superannuation Act* or a predecessor Act;

c. 419

"pension" means a pension to which a person is entitled from the Plan other than the adjustment for inflation provided by this section, and an allowance, annuity, deferred annuity or other periodic payments to which a person has become entitled under the *Public Service Superannuation Act* or a predecessor Act;

R.S.O. 1980,  
c. 419

"Plan" includes the pension plan established under the *Public Service Superannuation Act* and any predecessor Act.

(3) The annual amount of pension payable to a person from the Fund shall, commencing with the year when payment of the pension is to commence and in each subsequent year that the pension continues to be payable, be adjusted for inflation by multiplying the annual amount of the pension by the accumulated adjustment ratio for the pension of the person for that year, and the amount by which the pension thus adjusted exceeds the annual amount of pension before the adjustment in each year shall be paid to the person entitled to receive the pension for which it is calculated at the same times, in the same manner and subject to the same terms and conditions as apply to the pension in respect of which it is paid.

Payment of  
inflation  
adjustment

(4) The ratio determined for the year 1990 under the *Superannuation Adjustment Benefits Act* does not apply to a pension to which this section applies.

Ratio not to  
apply  
R.S.O. 1980,  
c. 490

25.—(1) A full-time employee who is permitted to continue the duties of his or her position as a part-time employee in accordance with this section for the final years of his or her employment in the public service is entitled to have his or her pension determined in accordance with this section if the employee meets all of the conditions set out in subsection (2) and gives the notice of election required by subsection (3).

Pre-  
retirement  
part-time  
employment

(2) The conditions referred to in subsection (1) are,

Conditions

(a) that the employee's part-time employment must be and continue to be,

(i) in a position that requires regular employment for at least fourteen hours per week or nine full days in each four weeks, or

(ii) full-time employment in a classified position in the civil service for at least one-third of each twelve-month period or part thereof following the giving of the notice required by subsection (3) and before the employee's retirement on the date provided for in the notice;

(b) that the employee must not be employed as a regular full-time employee in the public service at any time after giving the notice required by subsection (3) and before receiving a pension under the Plan;

(c) that during the period of part-time employment specified by the employee in the notice given in accordance with subsection (3), contributions are made to the Fund by the employee and the employer on the basis of the salary payable for full-time employment in the position held by the employee immediately before the giving of the notice; and

(d) that the employee's deputy minister must approve in writing the change from full-time to part-time employment proposed by the employee.

## Notice

(3) A full-time employee who wishes to contribute to the Fund on the basis provided for in this section shall give to his or her deputy minister a written notice signed by the employee stating,

- (a) that the employee intends to retire from employment in the public service not later than five years after the day on which the notice is given;
- (b) that the employee wishes to perform the duties of his or her position on a part-time basis until retirement from employment; and
- (c) that the employee wishes to continue to contribute to the Fund on the basis of his or her salary as a full-time employee in the position.

Pension on  
basis of  
full-time  
employment

(4) Despite the definition of "annual salary rate" and "credit", while an employee continues to comply with the conditions described in subsection (2),

- (a) contributions shall be made to the Fund by the employee and the employer on the basis of the salary payable for full-time employment in the position held by the employee immediately before the giving of the notice;
- (b) the employee's annual salary rate shall be that on which contributions to the Fund are paid; and
- (c) the employee shall be given credit in the Plan on the basis of full-time employment in the position in which the employee is employed part-time.

Resuming  
full-time  
employment

(5) If an employee who contributes to the Fund in accordance with this section resumes full-time employment in the public service after giving the notice required by subsection (3) and before receiving his or her pension, the employee's contributions to the Fund and credit in the Plan shall be recomputed without reference to subsection (4).

Excess  
contributions  
refunded

(6) Contributions to the Fund under this section in excess of those required after the application of subsection (5) shall be refunded to the person who paid them.

Interpretation  
R.S.O. 1980,  
c. 418

(7) In this section, "public service" has the same meaning as in the *Public Service Act*.

Re-  
employment  
of pensioner

26.—(1) If a former member who is receiving a pension is, in the opinion of the Board, re-employed or engaged in any capacity by an employer who contributes to the Fund, any pension that the former member is entitled to receive during the re-employment or engagement shall, for any period of three months commencing on the 1st day of January, April, July or October in any year during which the former member is so re-employed or engaged, be reduced by the amount by which the sum of,

- (a) three times the monthly salary paid to the former member in that period of three months; and
- (b) the pension payable to the former member in that period of three months if this section were not applicable to the former member,

exceeds the product of three times the monthly salary payable to the former member for the last full month of employment before he or she ceased to be a member of the Plan.



(2) Any period of re-employment or engagement referred to in subsection (1) for which a person may and does contribute to the Fund shall be added to the person's credit in the Plan, and any pension payable on termination of the re-employment or engagement shall be recalculated to take into account the additional credit and any pension earlier received by the person. Idem

(3) Despite subsection (1), the pension of a person who is appointed by the Lieutenant Governor in Council for a period not exceeding six months at a time to provide to the Crown the professional, expert or technical knowledge of the person in a special capacity required by the Crown shall not be reduced if the appointment so provides. Re-employment in expert capacity

27.—(1) Every transaction that purports to assign, charge, anticipate or give as security the interest, or any part thereof, of any person in the Fund or in any pension or other sum payable out of the Fund is void. Void transactions

(2) The interest of any person in the Fund or in any pension or other sum payable out of the Fund is exempt from execution, seizure or attachment. Exemption from seizure

(3) Subject to section 52 of the *Pension Benefits Act, 1987*, subsections (1) and (2) do not apply to prevent the operation of any order under the *Family Law Act, 1986* or the provisions of a domestic contract, as defined in Part IV of that Act. Order or separation 1987, c. 35 1986, c. 4

(4) Subsections (1) and (2) do not apply to prevent execution, seizure or attachment in satisfaction of an order for support or maintenance enforceable in Ontario to a maximum of one-half of the interest of any person in the Fund or in any pension or other sum payable out of the Fund. Order for support or maintenance

(5) Subsection (4) applies to orders of support or maintenance enforceable in Ontario whether made before or after the 31st day of December, 1989. Application of subs. (4)

(6) Despite subsections (1) and (2), if a person entitled to a refund or a lump-sum payment from the Fund requests the Board in writing to have the refund or payment paid, Payment into other funds

(a) into another registered pension plan;

(b) into a registered retirement savings plan that meets the requirements of the *Income Tax Act* (Canada);

R.S.C. 1952,  
c. 148

(c) to an insurance company to purchase an immediate or deferred life annuity; or

(d) into a pension plan approved by the Board,

the refund or payment shall be so paid.

28.—(1) A payment to be made under the Plan to a member's estate may be made to the executor or administrator of the member's estate or to the person or persons who appear to the Board to be properly acting in the administration or distribution of the member's estate or, if no executor or administrator or other person acting in the administration or distribution of the member's estate can be ascertained to the satisfaction of the Board, the payment may be paid into the Supreme Court of Ontario to the credit of the member's estate. Payment to estate

(2) If, after the death of a person, no spouse or child or designated beneficiary of that person can be found entitled to receive a pension on the Missing beneficiary



person's death, and the Board is satisfied that reasonable inquiries have been made to find the spouse or child or designated beneficiary, and more than one year has passed since the death of the person, the Board may, despite any other provision of the Plan, direct that the money that would be payable under the Plan to the person's estate if the person had died leaving no surviving child or spouse or designated beneficiary entitled to be paid a pension on the person's death be paid to the person's estate upon such terms and conditions as the Board determines.

Beneficiary  
later found

(3) If the spouse or child or designated beneficiary referred to in subsection (2) is subsequently found and a claim is made for any money payable under the Plan, the Board may direct that such money, less any money paid under subsection (2), be paid to the spouse or child or designated beneficiary, as the case may be.

Board to be  
corporation

29.—(1) The Public Service Superannuation Board is continued under the name of the Public Service Pension Board and the Board is constituted a corporation without share capital.

Application  
of  
R.S.O. 1980,  
c. 95

(2) The *Corporations Act* does not apply to the Board.

Board  
members

(3) The Board shall be composed of at least four members appointed by the Lieutenant Governor in Council, one of whom shall be representative of the members of the Plan who are members of a union with whom the employer has a collective agreement.

Term of  
office

(4) Each appointment or reappointment of a Board member shall be for such term, not exceeding three years, as the Lieutenant Governor in Council specifies.

Idem

(5) If the Lieutenant Governor in Council considers it appropriate and desirable, members may be appointed to the Board because of their expertise in the management, investment or administration of pension plans or in order to represent on the Board, subject to the requirements of the *Pension Benefits Act, 1987*, the concerns of the Crown, of members required to contribute to the Fund or of persons receiving pensions under the Plan.

1987, c. 35

Reappointment

(6) A member whose appointment has expired may be reappointed to the Board, but no reappointment shall be for a term that, when added to the member's current unbroken period of membership, exceeds six consecutive years of membership.

Chairperson  
and vice-  
chairperson

(7) From the members of the Board, the Lieutenant Governor in Council may designate a chairperson and one or more vice-chairpersons for a term not to exceed two years or such lesser period as the person remains a member of the Board and, if the Lieutenant Governor in Council does not designate a chairperson or vice-chairperson within one month after the position becomes vacant, the members of the Board shall elect one of them to be chairperson, and may elect one or more of them to be vice-chairperson, but the term for which any chairperson or vice-chairperson is elected shall not exceed two years or the remaining period of his or her appointment to the Board, whichever is shorter.

Remuneration

30. The Lieutenant Governor in Council shall establish the remuneration or range of remuneration to be paid to a member of the Board and to the chairperson and vice-chairperson, but no member of the Board who is employed in the public service of Ontario shall be paid any remuneration other than reimbursement for expenses actually incurred in the performance of his or her duties as a member of the Board or an honorarium in recogni-

tion of salary lost by the public servant for attendance at a meeting of the Board.

**31.—(1)** It is the duty and responsibility of the Board to administer the Plan and manage the Fund in accordance with this Act, the Plan and the *Pension Benefits Act, 1987*. Duty of Board  
1987, c. 35

(2) The Board shall appoint or employ an actuary, an auditor and such officers, employees, advisers, experts and other persons as are required to carry out the duties and responsibilities of the Board. Employment of officers and others

(3) The Board may make rules and by-laws for the administration and management of the Plan and the Fund and for the conduct of the affairs of the Board and committees of the Board, and may, for such period as the Board determines and on such terms and conditions as the Board considers appropriate, assign or delegate to any officer, employee, member or committee of the Board or other person retained by the Board the performance or exercise of any of the duties or responsibilities of the Board as the Board considers necessary or desirable. Board may make rules

(4) Without restricting the generality of subsection (3), the Board may make rules, Idem

- (a) prescribing the proofs to be furnished as a condition to the payment of a pension;
- (b) excluding from salary on which contributions to the Fund are based any payment to a member that is, in the opinion of the Board, not a regular and usual part of the normal remuneration for the member's employment or is a payment in the nature of a special consideration or employee benefit;
- (c) approving forms and providing for their use; and
- (d) requiring members of the Plan, recipients of pensions under the Plan or applicants for pensions under the Plan to furnish information to or for the use of the Board, and prescribing the form thereof and the information to be furnished.

**32.** The Board has and may exercise all of the powers and capacities of a natural person that are considered by the Board to be necessary or incidental to the carrying out of its duties and responsibilities under this Act and the Plan and, in particular, the Board may, Powers of Board

- (a) contract and be contracted with and sue and be sued;
- (b) acquire by purchase, lease or otherwise any real or personal property for its own use or as an investment of the Fund, and may sell, lease or otherwise dispose of all or any part of its property in its discretion;
- (c) participate with others as a partner or as a member of a syndicate or association of persons in the acquisition, holding, management or disposition of any property by way of investment or otherwise;
- (d) determine the rate of remuneration and the employee benefits and perquisites for its employees and the conditions of employment under which they are employed;
- (e) with the approval of the Management Board of Cabinet, enter into such arrangements as are considered necessary by the Board for the purchase from the Crown of the services of any employee or ministry of the Crown, or for the use of any facilities or equipment belonging

to the Crown, that may assist the Board in the management or administration of the Plan or the Fund; and

- (f) with the approval of the Lieutenant Governor in Council, enter into an agreement to administer any other pension plan or fund or administer a benefit plan to provide health or medical or other benefits to persons who have ceased to be members of the Plan and are entitled to a pension, and to recover, where appropriate, the costs of such administration from that plan or fund.

**Committees**           **33.**—(1) The Board may establish such committees as are considered necessary or desirable.

**Committee may delegate**       (2) A committee established by the Board may, with the approval of the Board and in accordance with the policy established by the committee or the Board, delegate to an officer or employee of the Board any of the duties and responsibilities of the committee, including those delegated to the committee by the Board.

**Quorum**               **34.** The quorum for any meeting of the Board or a committee of the Board shall be at least a majority of the members of the Board or committee.

**Expenses**             **35.** The expenses of the operation of the Board, the administration of the Plan and the management of the Fund shall be paid out of the Fund.

**Reciprocal transfer agreements continue to apply**       **36.**—(1) Any agreement in writing between a person and the Minister or the Crown for the reciprocal transfer of pension credits between the Public Service Superannuation Fund established under the *Public Service Superannuation Act* and another pension plan continues to apply to the Plan with all necessary modifications.  
R.S.O. 1980, c. 419

**Transfer to Plan of credit in other plans**       (2) If the Board enters into a written agreement with an employer to whom the Plan does not extend for the transfer to the Plan of credit for a person's service with that employer, the person shall, on becoming a member and requesting a transfer of credit to the Plan in accordance with the agreement, pay or cause to be paid into the Fund the amount provided for in the agreement for the purchase of the credit that is being transferred.

**Transfer to other plan of credit in Plan**       (3) If the Board enters into a written agreement for the transfer from the Plan to another pension plan registered under the *Income Tax Act* (Canada) of credit in the Plan in respect of members who become members of the other plan, the Board shall, at the request of a member transferring credit from the Plan in accordance with the agreement, pay from the Fund to the Plan to which the member's credit is being transferred the amount provided for in the agreement for the purchase of credit for the member in the other plan.  
R.S.C. 1952, c. 148

**Transfer agreements prevail**       (4) Subsections (1) to (3) apply despite section 11 or 13.

**Approval of agreements**       (5) The Board shall not enter into an agreement mentioned in subsection (2) or (3) until the agreement is approved by the Lieutenant Governor in Council.

**Annual report**           **37.** After the close of each fiscal year, the Board shall submit to the Minister a report for the fiscal year just ended of the financial and other affairs of the Plan and the Fund, and the Minister shall submit the report to the Lieutenant Governor in Council and shall then lay the report before the Legislative Assembly if it is in session or, if not, at the next session.



**38.**—(1) In the reports to the Minister under section 37, the Board shall identify,

Report re  
O.P.P. early  
retirement  
benefit

- (a) the additional cost to the Plan of the pension provided to members of the Ontario Provincial Police Force by subsection 15 (4) over the cost of the pension or deferred pension that would be payable without that subsection; and
- (b) the financial benefit to the Plan from the contributions of members of the Ontario Provincial Police Force under subsection 6 (2), from the employer's contributions made to match contributions under that subsection, and from the return reasonably attributable to the investment of the contributions and of the proceeds received by the Fund from the transfers under subsections 7 (2) and (3) of this Act.

(2) The Board shall also indicate in its reports the sufficiency of the financial benefits referred to in clause (1) (b) to meet the additional costs referred to in clause (1) (a) and whether those additional costs for pensions that are being paid at the end of the year for which the report is made have been met by the financial benefits that have then accrued to the Fund.

Idem

**39.**—(1) Each employee of the Board and his or her heirs, executors and administrators shall be indemnified and saved harmless by the Board from and against all costs, charges and expenses sustained or incurred in or about any action, suit, proceeding or claim against him or her for any act, omission, deed, matter or other thing made, done or permitted or omitted to be made or done in or about the execution of the duties of his or her employment by the Board, and every payment made for the indemnification is an administrative expense of the Board.

Indemnifi-  
cation

(2) Indemnification under subsection (1) does not extend to the act or omission to act of any person that was done or omitted to be done dishonestly or in bad faith.

Limitation



## SCHEDULE 2

## INTERIM PAYMENTS OF UNFUNDED LIABILITY

	<i>Date of payment</i>	<i>Amount of payment</i>
1.	January 1, 1990	\$7,283,000
2.	February 1, 1990	7,316,000
3.	March 1, 1990	7,349,000
4.	April 1, 1990	7,381,000
5.	May 1, 1990	7,414,000
6.	June 1, 1990	7,448,000
7.	July 1, 1990	7,481,000
8.	August 1, 1990	7,514,000
9.	September 1, 1990	7,548,000
10.	October 1, 1990	7,582,000
11.	November 1, 1990	7,616,000
12.	December 1, 1990	7,650,000
13.	January 1, 1991	7,684,000
14.	February 1, 1991	7,718,000
15.	March 1, 1991	7,753,000
16.	April 1, 1991	7,787,000
17.	May 1, 1991	7,822,000
18.	June 1, 1991	7,857,000
19.	July 1, 1991	7,892,000
20.	August 1, 1991	7,928,000
21.	September 1, 1991	7,963,000
22.	October 1, 1991	7,999,000
23.	November 1, 1991	8,034,000
24.	December 1, 1991	8,070,000
25.	January 1, 1992	8,106,000
26.	February 1, 1992	8,143,000
27.	March 1, 1992	8,179,000
28.	April 1, 1992	8,216,000
29.	May 1, 1992	8,252,000
30.	June 1, 1992	8,289,000
31.	July 1, 1992	8,326,000
32.	August 1, 1992	8,364,000
33.	September 1, 1992	8,401,000
34.	October 1, 1992	8,439,000
35.	November 1, 1992	8,476,000
36.	December 1, 1992	8,514,000





# Bill 36

*(Chapter 73  
Statutes of Ontario, 1989)*

## **An Act to revise the Public Service Superannuation Act**

**The Hon. M. Elston**  
*Chairman of the Management Board of Cabinet*

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<i>1st Reading</i>	June 20th, 1989
<i>2nd Reading</i>	November 8th, 1989
<i>3rd Reading</i>	December 18th, 1989
<i>Royal Assent</i>	December 18th, 1989

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**Bill 36**

**1989**

## An Act to revise the Public Service Superannuation Act

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4. Plan documents
5. Public Service Superannuation Fund continued
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**Section**

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12. Payment of pensions under other Acts
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19. Short title

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## Interim payments of unfunded liability

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

## Definitions

**1.** In this Act, “actuary”, “Board”, “Crown”, “employer”, “Fund”, “member”, “Minister”, “pension”, “pension benefit”, “Plan”, “salary” and “Treasurer” have the same meaning as in section 1 of Schedule 1.

## Application

**2.** Subject to subsection 14 (2) and to section 24 of Schedule 1, this Act applies to every person employed after the 31st day of December, 1989 in the service of an employer.

Plan  
continued  
R.S.O. 1980,  
cc. 419, 490

**3.** The pension plan contained in the provisions of the *Public Service Superannuation Act* and the regulations thereunder, including the benefits provided under the *Superannuation Adjustment Benefits Act* in relation to pensions provided under the *Public Service Superannuation Act*, is continued as the Public Service Pension Plan as revised by this Act and set out in Schedule 1.

Plan  
documents

**4.** The terms of the Plan are those set out in Schedule 1, in this Act and in such other documents concerning the Plan as are created under this Act or Schedule 1.

Public  
Service  
Superan-  
nuation Fund  
continued

**5.—(1)** The Public Service Superannuation Fund established under the *Public Service Superannuation Act* is continued as the Public Service Pension Fund to provide benefits in respect of the Plan.

Board to  
administer

**(2)** The Plan and the Fund shall be administered by the Board in accordance with this Act and the Plan.

Future  
revision of  
Plan

**6.—(1)** The Lieutenant Governor in Council by order may amend the Plan and, without restricting the generality of the foregoing, may,

- (a) determine the methods or assumptions to be used to calculate any pension benefit provided under the Plan;
- (b) rescind the Plan and replace it with another pension plan;
- (c) extend, modify or restrict the conditions upon which persons may become members of the Plan;

- (d) establish a separate pension plan or plans for any class or classes of persons who are members of the Plan, and direct the transfer from the Fund to any fund related to such separately established pension plan or plans of any amount specified to represent the value, as determined by an actuarial valuation, of the pension benefits of persons who will be members of such separately established pension plan or plans;
- (e) increase or prospectively reduce, eliminate or modify any pension benefit set out in the Plan or the rate or amount of contribution to be made under the Plan;
- (f) regulate the administration of the Plan and the composition, duties and powers of the Board;
- (g) exercise with respect to any plan established under this section the powers conferred by this section.

(2) To the extent that an amendment of the Plan made under subsection (1) conflicts with the *Pension Benefits Act, 1987* in a matter in which the conflict is not authorized by this Act or Schedule 1, the amendment is void.

Limitation re  
amendment  
1987, c. 35

(3) If the Crown enters into an agreement for an indefinite term with representatives of a majority of the members with respect to,

Agreement  
for joint  
responsibility

- (a) the joint management of the Plan and the Fund by the Crown and representatives of the members;
- (b) the sharing between the Crown and the members of surpluses and deficiencies in the Fund;
- (c) prior consultation between the Crown and the representatives to determine if agreement can be reached between them concerning any change in benefits under the Plan or in the rate or amount of contributions to the Fund from the Crown or the members; and
- (d) mediation procedures following a failure to agree on a change in benefits under the Plan or in the rate or amount of contributions to the Fund,

the powers mentioned in subsection (1) shall, while the agreement remains in force, be exercised only in accordance with the agreement.



Idem

(4) An agreement mentioned in subsection (3) may also provide that, to the extent specified in the agreement, subsections 11 (2) and (5) cease to apply while the agreement is in force.

Agreement  
for member  
responsibility

(5) If it is agreed between the Crown and representatives of a majority of members that the management of the Plan, the entitlement to surpluses in the Fund and the liability for deficiencies in the Fund will be permanently assumed by the members from time to time of the Plan and that the liability of the Crown to contribute to the Fund will be limited to a specified amount or to a specified percentage of members' contributions or salaries, the Lieutenant Governor in Council may provide by order that the powers mentioned in subsection (1) shall be exercised thereafter only in accordance with the agreement and by the person, persons or entity specified in the agreement.

Application  
of  
R.S.O. 1980,  
c. 446

(6) The *Regulations Act* does not apply with respect to an order amending the Plan.

Transfer of  
SAF Account

R.S.O. 1980,  
cc. 419, 490

7.—(1) As of the 31st day of December, 1989, the Treasurer shall transfer to the Public Service Superannuation Fund Account maintained in the Consolidated Revenue Fund under the *Public Service Superannuation Act* the total assets and liabilities of the Public Service Superannuation Fund Account in the Superannuation Adjustment Fund Account maintained in the Consolidated Revenue Fund under the *Superannuation Adjustment Benefits Act*.

Transfer of  
O.P.P.  
Supple-  
mentary  
Benefits  
Account

(2) As of the 31st day of December, 1989, the Treasurer shall transfer to the Public Service Superannuation Fund Account maintained in the Consolidated Revenue Fund under the *Public Service Superannuation Act* the total assets and liabilities of the Ontario Provincial Police Supplementary Benefits Account maintained in the Consolidated Revenue Fund under Order in Council 196/85.

Interest

(3) As of the 31st day of December, 1989, the Treasurer shall pay to the Public Service Superannuation Fund Account maintained in the Consolidated Revenue Fund under the *Public Service Superannuation Act* interest at the rates and on the terms determined by the Lieutenant Governor in Council on the cash balances that from time to time stood to the credit of,

- (a) the Public Service Superannuation Fund Account maintained in the Consolidated Revenue Fund under the *Public Service Superannuation Act*;

R.S.O. 1980,  
c. 419

- (b) the Public Service Superannuation Fund Account in the Superannuation Adjustment Fund Account maintained in the Consolidated Revenue Fund under the *Superannuation Adjustment Benefits Act*; and R.S.O. 1980, c. 490
- (c) the Ontario Provincial Police Supplementary Benefits Account mentioned in subsection (2),

in the period from the 1st day of April, 1989 to the 31st day of December, 1989.

(4) Interest payable by the Treasurer on assets held on the 1st day of April, 1989 in the accounts referred to in clauses (3) (a), (b) and (c) shall be accrued to the 31st day of December, 1989 and paid as of that date to the Public Service Superannuation Fund Account despite a later time for payment specified in any instrument that provides for payment of the interest, and the payment made to the Account reduces the liability of the Treasurer under the instrument for interest by the amount paid. Idem

(5) Payments by the Treasurer made under subsections (3) and (4) shall be made from the Consolidated Revenue Fund. Idem

(6) As of the 1st day of January, 1990, the Treasurer shall transfer to the custody and control of the Board the total amount of the assets on the 31st day of December, 1989 of the Public Service Superannuation Fund Account maintained in the Consolidated Revenue Fund under the *Public Service Superannuation Act*, including assets and payments transferred or made to that account under this section, by issuing to the Board debentures of the Province of Ontario that are equal to the amount of the assets and that, in the opinion of the Treasurer, provide for the payment of principal and interest on terms substantially equivalent to those on which the assets are held on the 31st day of December, 1989. Transfer of PSSF Account  
R.S.O. 1980, c. 419

(7) All liabilities on the 1st day of January, 1990 of the accounts mentioned in subsections (1), (2) and (6) are liabilities of the Fund on and after that date and, as of that date, the accounts cease to exist in the Consolidated Revenue Fund. Liabilities transferred to Fund

(8) During the period from the 31st day of December, 1989 to the 30th day of June, 1990, the Treasurer may establish outside the Consolidated Revenue Fund an account or accounts for such temporary period as the Treasurer considers advisable to facilitate the orderly transfer to the Board of the assets of the Fund and the administration of the Plan. Temporary account authorized

## Debentures

(9) For the purpose of subsection (6), the Treasurer may, on behalf of Ontario, issue to the Fund debentures of Ontario in such amounts, upon such terms as to the payment of principal and interest, maturing at such time or times and either with or without the privilege of prepayment of the whole or any part of the principal amount of any such debenture as will, in the opinion of the Treasurer, meet the requirements of this section, and any debenture may provide that it is not assignable or transferrable.

Investments  
authorized  
1987, c. 35

(10) Despite the *Pension Benefits Act, 1987* and regulations thereunder, the receipt and holding by the Board of debentures issued under this section shall not be considered imprudent or unreasonable or contrary to that Act and regulations thereunder, and the nature, amount and terms of the debentures may be taken into account by the Board and any committee of the Board in determining future investments of the assets of the Plan.

Application  
of  
1987, c. 35

(11) Section 82 of the *Pension Benefits Act, 1987* does not apply to the transfers described in this section.

Initial  
unfunded  
liability

**8.—**(1) In this section and in sections 9 and 10 and subsection 11 (3),

“actuarial gain” and “actuarial loss” mean, respectively, the sum, if positive, or the sum, if negative, of,

- (a) the gain to the Plan during the period since the review date of the immediately preceding going concern valuation resulting from the difference between actual experience and the experience expected by the actuarial assumptions on which that valuation was based,
- (b) the amount by which the going concern liabilities decrease as a result of an amendment to the Plan, and
- (c) the amount by which the going concern liabilities decrease or the going concern assets increase as a result of a change in actuarial methods or assumptions upon which the current going concern valuation is based, as of the review date for a going concern valuation,

but clause (a), (b) or (c) or any combination thereof shall be counted as a negative in the calculation of the sum if,



- (d) the experience of the Plan results in a loss rather than a gain,
- (e) an amendment increases the going concern liabilities, or
- (f) a change in actuarial methods or assumptions results in an increase in going concern liabilities or a decrease in going concern assets, as the case may be;

“going concern assets” means the value of the assets of the Plan, including accrued and receivable income and the present value of future contributions and investment income, determined on the basis of a going concern valuation;

“going concern liabilities” means the present value of the expenses of the Plan and the accrued and unaccrued benefits of the Plan determined on the basis of a going concern valuation;

“going concern unfunded actuarial liability” means the excess of going concern liabilities over going concern assets;

“going concern valuation” means a valuation of assets and liabilities of the Plan using methods and actuarial assumptions considered by the actuary who valued the Plan to be in accordance with generally accepted actuarial principles and practices for the valuation of a continuing pension plan;

“initial valuation” means the going concern valuation of the Plan as at the 1st day of January, 1990 required by section 10;

“past service unfunded actuarial liability” means the amount of going concern unfunded actuarial liability that results from the provision of benefits with respect to prior employment for which no benefit was provided at the time of the employment or from an amendment to the Plan that provides benefits for employment prior to the date of the amendment if the employment had not previously been recognized for purposes of the provision of pension benefits;

“review date” means the last date of the period under review in a report required under the *Pension Benefits Act, 1987* or regulations thereunder; 1987, c. 35

“solvency assets” means the sum determined in accordance with subsections (2) and (3) of,



- (a) the market value of investments held by the Plan or a value related to the market value by means of an averaging method that stabilizes short-term fluctuations of the market values over a period of not more than five years, plus any cash balances and accrued or receivable income items,
- (b) the present value of any special payments required to liquidate any past service unfunded actuarial liability established on or after the 1st day of January, 1988,
- (c) the present value of any special payments other than those referred to in clause (b) established on or after the 1st day of January, 1988 that are scheduled for payment within five years after the review date, and
- (d) the present value of future special payments resulting from the initial valuation;

“solvency deficiency” means the excess of the solvency liabilities over the solvency assets;

“solvency gain” means the sum, if positive, of,

- (a) the gain to the Plan during the period since the review date of the immediately preceding valuation of solvency assets and solvency liabilities resulting from the difference between actual experience and the experience expected by the actuarial assumptions on which that valuation was based, and
- (b) the amount by which the solvency liabilities decrease or the solvency assets increase during the period since the review date of the immediately preceding valuation of solvency assets and solvency liabilities as a result of a change in the actuarial methods or assumptions upon which the current valuation of solvency assets and solvency liabilities is based,

but either of clause (a) or (b) shall be counted as a negative in the calculation of the sum if the experience of the Plan results in a loss rather than a gain or if a change in actuarial methods or assumptions results in an increase in solvency liabilities or a decrease in solvency assets, as the case may be;

“solvency liabilities” means an amount that is not less than the liabilities of the Plan determined as if the Plan had been wound up, taking into account liabilities for the adjustment for inflation under the Plan and the requirements of section 75 of the *Pension Benefits Act, 1987*.

1987, c. 35

(2) The present values referred to in clauses (b), (c) and (d) of the definition of “solvency assets” shall be determined on the basis of the assumed interest rate used in determining whether there is a solvency deficiency.

Present  
values re  
solvency  
assets

(3) In calculating the solvency assets, if there is no market value for an investment of the Plan and the investment is issued or guaranteed by a government, the book value of the investment may be used instead of market value.

If no market  
value

(4) The provisions of this section and of sections 9, 10 and 11 prevail over any conflicting provisions of the *Pension Benefits Act, 1987* or of a regulation made under that Act.

Conflicting  
provisions

**9.—**(1) For each month in the period commencing with the 1st day of January, 1990 and ending with the last day of the month in which the initial valuation is approved by the Pension Commission of Ontario, the Treasurer shall pay to the Fund from the Consolidated Revenue Fund the amount shown for that month in Schedule 2.

Interim  
payments of  
unfunded  
liability

(2) The Treasurer may, with the appropriate adjustment for interest, at any time prepay one or more of the outstanding payments shown in Schedule 2.

Prepayment

(3) Payments made under subsection (1) or (2) shall be credited against any special payments that are to be made in the same period to liquidate a going concern unfunded actuarial liability disclosed by the initial valuation, and any amount by which the payments made under those subsections are less than the special payments for that period as a result of the initial valuation shall be paid by the Treasurer to the Fund from the Consolidated Revenue Fund within fifteen months following the month when the initial valuation is approved by the Pension Commission of Ontario.

Application  
of estimated  
payments

**10.—**(1) As soon as practicable after the 31st day of December, 1989, the Board shall cause to be prepared a going concern valuation of the Plan as at the 1st day of January, 1990, and the valuation shall include the adjustment of pensions for inflation under the Plan.

Initial  
valuation

(2) The initial valuation shall,

Idem

- (a) comply with this section and section 11;
- (b) be delivered by the actuary to the Board and to the Minister and the Treasurer, and shall be filed with the Pension Commission of Ontario by the Board only after the Minister and the Treasurer have advised the Board in writing that they agree that the initial valuation delivered to them be filed; and
- (c) for all purposes of the Plan determine the going concern unfunded actuarial liability or surplus of the Plan as at the 1st day of January, 1990.

Liability  
liquidated

(3) Any going concern unfunded actuarial liability disclosed by the initial valuation shall be liquidated by a series of special payments from the Consolidated Revenue Fund to be made over the forty years commencing on the 1st day of January, 1990.

Calculation  
of special  
payments

(4) Each special payment mentioned in subsection (3) shall be calculated as a constant percentage of the projected future earnings from employment used to calculate pension benefits during the forty years commencing on the 1st day of January, 1990 of all persons who are members of the Plan on that date and of those who are expected to join the Plan during those forty years.

Present value  
of special  
payments

(5) The present value, as at the 1st day of January, 1990, of the full series of special payments shall equal the amount of the going concern unfunded actuarial liability to be liquidated.

Schedule of  
payments

(6) The actuary shall prepare and submit with the initial valuation a schedule showing the dollar amount of each special payment in the first six years of the series and the formula by which the dollar amount of the remaining special payments in the series is determined.

Prepayments  
and  
additional  
payments

(7) The Treasurer may, at any time, prepay a part or all of any outstanding special payments or may make additional payments to the Fund to be applied, with appropriate adjustments for interest, as the Treasurer shall direct to reduce the going concern unfunded actuarial liability disclosed by the initial valuation, and every such payment may be paid out of the Consolidated Revenue Fund.

Consistent  
assumptions

(8) Subject to subsection (4),

- (a) the projected future earnings from employment used to calculate pension benefits shall be deter-



mined using actuarial assumptions consistent with those made in the initial valuation;

- (b) the present value of the series of special payments shall be determined using the interest rate used in the initial valuation; and
- (c) all other actuarial assumptions made in the determination of the series of special payments shall be, so far as possible, consistent with actuarial assumptions made in the initial valuation.

**11.—(1)** A going concern valuation of the Plan made after the initial valuation shall include the present value of the outstanding special payments calculated under section 10 that remain to be made to liquidate the going concern unfunded actuarial liability disclosed by the initial valuation, and the actuary shall prepare and submit with the valuation a schedule showing the amount, determined from the formula mentioned in subsection 10 (6), of each remaining special payment for the next six years or for the period of time for which special payments remain to be made, whichever is shorter.

Subsequent  
valuations

(2) Any actuarial gain disclosed by a going concern valuation made after the initial valuation shall be applied in the following order and manner:

Application  
of actuarial  
gain

1. The amount of the gain shall first be applied to reduce, and to eliminate if possible, the payments required to liquidate any unamortized balance of a solvency deficiency disclosed by the initial valuation or a subsequent valuation.
2. When no solvency deficiency remains, the amount of the gain shall be applied to reduce, and to eliminate if possible, a going concern unfunded actuarial liability disclosed by a valuation after the initial valuation.
3. When no other going concern unfunded actuarial liability remains, the amount of the gain shall be applied to reduce, and to eliminate if possible, the unliquidated amount of the going concern unfunded actuarial liability disclosed by the initial valuation.

(3) In determining any solvency gain or solvency deficiency of the Plan, solvency assets shall include the present value of future special payments resulting from the initial valuation.

Special  
payments a  
solvency  
asset



When special  
payments  
cease

(4) When the special payments made as a result of the initial valuation, the prepayments and additional payments made under subsection 10 (7), and the actuarial gains applied under paragraph 3 of subsection (2) have liquidated the going concern unfunded actuarial liability disclosed by the initial valuation, no further special payments shall be made, notwithstanding that the period of forty years used in the initial valuation has not then expired.

Minister to  
approve  
valuation

(5) No valuation of the Plan after the initial valuation shall be filed by the Board with the Pension Commission of Ontario until the Minister has advised the Board in writing that he or she agrees that the valuation be filed.

Payment of  
pensions  
under other  
Acts  
R.S.O. 1980,  
cc. 419, 490

**12.** Every allowance, annuity, deferred annuity or other payment under the *Public Service Superannuation Act* or a predecessor Act or under the *Superannuation Adjustment Benefits Act*, including any payment authorized to be made from the Consolidated Revenue Fund, that, before the 1st day of January, 1990, a person is receiving, is entitled to receive, or is entitled to receive with the payment thereof deferred until the year 1990 or later, shall be paid out of the Fund in accordance with the Act under which entitlement to the payment arose.

Expiry of  
appointments

**13.** On the 31st day of December, 1989, the term of appointment of any person under the *Public Service Superannuation Act* as a member of the Public Service Superannuation Board expires.

Continued  
application

**14.—(1)** The *Public Service Superannuation Act*, as it read on the 31st day of December, 1989, continues to apply to the computation or payment of every allowance, annuity, deferred annuity or payment to the payment of which a person has become entitled under that Act prior to that date, and continues to apply in respect of every person who, within the meaning of that Act, has ceased to be a contributor before that date and is entitled to a deferred annuity under that Act.

Exception  
for re-  
employment

(2) A person mentioned in subsection (1) who is re-employed in the service of the Crown or who becomes a member of the Plan, on or after the 1st day of January, 1990, for a prescribed period of time and in prescribed circumstances, terms or conditions, and who is required by, or entitled under, the Plan to contribute to the Fund in respect of such re-employment, may participate in the Plan to the extent prescribed with respect to the computation or payment of a pension or other payment and subsection (1) does not apply in the circumstances.

(3) The Lieutenant Governor in Council may make regulations prescribing a period or periods of time and prescribing circumstances, terms or conditions and the extent of participation in the Plan for the purpose of subsection (2). Regulations

**15.** The provisions of the *Superannuation Adjustment Benefits Act* relating to the payment of, or contribution for, adjustment benefits or any other benefit described in that Act in respect of any allowance, annuity, deferred annuity or other payment arising under the *Public Service Superannuation Act* cease to apply on and after the 1st day of January, 1990. R.S.O. 1980, c. 490 ceases to apply  
R.S.O. 1980, c. 419

**16.—(1)** A contributor as defined in the *Public Service Superannuation Act* who, Post-retirement marriage

- (a) is being paid an allowance or annuity under that Act;
- (b) has no spouse entitled to a survivor allowance under section 20 of that Act; and
- (c) becomes the spouse of a person who would not be entitled on the death of the contributor to a survivor allowance under section 20 of that Act,

may in writing direct the Board to pay to the person, if he or she survives the death of the contributor, a survivor allowance under section 20 of that Act for life of 50 per cent, 55 per cent, 60 per cent, 65 per cent, 70 per cent or 75 per cent of the allowance or annuity received by the contributor immediately before his or her death.

(2) A direction mentioned in subsection (1) must be delivered to the Board, Time limit

- (a) within ninety days after the date on which the contributor became the spouse of the person to whom the survivor allowance is directed to be paid; or
- (b) if immediately before the person becomes the spouse of the contributor there is a child of the contributor who would be entitled on the contributor's death to receive an allowance under the *Public Service Superannuation Act*, within ninety days after the date the child ceases to be entitled to receive the allowance;
- (c) the 30th day of June, 1990; or

- (d) the last day of the sixth month following the month in which this Act receives Royal Assent.

Exception

(3) The Board may accept a direction delivered after the time mentioned in subsection (2) if the Board is satisfied that the contributor is in good health having regard to his or her age.

Actuarial  
reduction of  
allowance

(4) The annuity or allowance payable to a contributor who has given a direction in accordance with this section shall be actuarially reduced in a manner approved by the Board to reflect the survivor allowance directed to be paid and, subject to subsection (5), and to section 20 of the *Public Service Superannuation Act*, the survivor allowance shall be paid in the percentage specified in the direction to the spouse if he or she survives the death of the contributor.

R.S.O. 1980,  
c. 419

Prior interest  
of child

(5) A survivor allowance under this section shall not be paid while there is a child of the deceased contributor entitled to receive an allowance as a result of the death of the contributor.

Refund when  
no survivor  
allowance  
payable

(6) If a contributor who is in receipt of an allowance or annuity dies survived by a child or children under eighteen years of age or by a spouse from whom the contributor is not living separate and apart, and if none of them is entitled to a survivor allowance under section 20 of the *Public Service Superannuation Act*, this section or that Act as a result of the death of the contributor, the amount, if any, by which twice the total of contributions made under the *Public Service Superannuation Act* to the Public Service Superannuation Fund by or on behalf of the contributor and of the interest credited in that Fund to the contributor exceeds the total payments made from the Fund and the Public Service Superannuation Fund to the contributor shall be paid from the Fund to the surviving spouse, or if there is no surviving spouse, to the child or children, if any, of the contributor under eighteen years of age at the contributor's death.

Repeals

**17.—**(1) The following are repealed on the 1st day of January, 1990:

1. The *Public Service Superannuation Act*, being chapter 419 of the Revised Statutes of Ontario, 1980, excluding subsection 20 (7).
2. Item 13 of the Schedule to the *Revised Statutes Amendment Act, 1981*, being chapter 66.

3. The *Public Service Superannuation Amendment Act, 1983*, being chapter 44.
4. Section 3 of the *Provincial Judges and Masters Statute Law Amendment Act, 1983*, being chapter 78.
5. The *Public Service Superannuation Amendment Act, 1984*, being chapter 22.
6. Section 74 of the *Family Law Act, 1986*, being chapter 4.
7. The *Public Service Superannuation Amendment Act, 1986*, being chapter 12.
8. Section 60 of the *Equality Rights Statute Law Amendment Act, 1986*, being chapter 64.

(2) Subsection 20 (7) of the *Public Service Superannuation Act* is repealed on the 31st day of December, 1989. Idem

**18.** This Act comes into force on the 31st day of December, 1989. Commence-  
ment

**19.** The short title of this Act is the *Public Service Pension Act, 1989*. Short title



## SCHEDULE 1

## PUBLIC SERVICE PENSION PLAN

## Definitions

## 1. In this Schedule,

"actuary" means a Fellow of the Canadian Institute of Actuaries;

"annual salary rate" means the hourly, weekly or other rate at which a person's salary is paid expressed as an annual salary according to such consistently applied formula as the Board considers appropriate having regard to the hours regularly worked by a full-time employee in the position occupied by the person for whom the annual salary rate is determined or in a comparable position;

"average annual salary" means the average of the member's annual salary rate in each month of the period of sixty consecutive months of membership in the Plan that produces the highest average, but if the member does not have a period of sixty consecutive months of membership in the Plan, "average annual salary" means the average of the member's annual salary rate in each month of the member's longest period of consecutive months of membership in the Plan;

R.S.C. 1985,  
c. C-8

"average year's maximum pensionable earnings", with respect to any member, means the average of the Year's Maximum Pensionable Earnings under the *Canada Pension Plan* for the year in which the member ceases to be a member of the Plan and for each of the two preceding years;

"Board" means the Public Service Pension Board referred to in this Schedule;

1986, c. 4

"child" has the same meaning as in the *Family Law Act, 1986*;

"continuous", in relation to employment, membership or service, means without regard to periods of temporary suspension of the employment, membership or service, and without regard to periods of lay-off from employment;

"credit", when used in reference to credit in the Plan, means the total period of time, calculated in years of full-time employment, for which contributions are made to the Fund on behalf of the member or for which a member is employed and for which contributions to the Fund have been made, and where the member's employment is less than full-time employment, credit shall be given on the basis of the proportion of full-time employment represented by the member's employment for which contributions are made to the Fund;

"Crown" means the Crown in right of Ontario;

"employer" means,

(a) the Crown,

(b) an agency, board, commission, foundation or organization designated by order of the Lieutenant Governor in Council as an employer for the purposes of the Plan,

(c) the Provincial Auditor, and

(d) the employer of persons required by any Act of the Legislature to be members of this Plan or the pension plan established by the *Public Service Superannuation Act* or a predecessor Act;

“former member” means a person who has ceased to hold a position, office or designation that entitles the person to be a member of the Plan, and who,

(a) is entitled, either immediately or at a future time, to payment of a pension under the Plan, or

(b) is entitled to receive any other payment under the Plan;

“Fund” means the Public Service Pension Fund;

“member” means a person,

(a) who is required to join the Plan,

(b) who is designated for the purpose of section 9 of the Plan, or

(c) who is not required to join the Plan, but is entitled to join the Plan and has elected to do so,

but does not include a former member;

“Minister” means the Chairman of the Management Board of Cabinet;

“pension” means a pension benefit that is being paid to a person under the Plan;

“pension benefit” means the aggregate monthly, annual or other periodic amounts, if any, to which a member will become entitled under the Plan on or after ceasing to be a member or to which any other person will become entitled under the Plan upon the death of a member or former member;

“Plan” means the Public Service Pension Plan set out in this Schedule;

“salary”, in relation to a member, means the amount of money payable to a member and computed by reference to the hours, days, weeks or other specific periods of time for which the member is employed, but does not include overtime pay or any payment to the member in lieu of a benefit provided by the employer or any payment determined by the Board not to be part of a member’s salary;

“spouse” means either of a man and woman who,

(a) are married to each other, or

(b) are not married to each other and are living together in a conjugal relationship,

(i) continuously for a period of not less than three years, or

(ii) in a relationship of some permanence, if they are the natural or adoptive parents, as defined in the *Family Law Act*, 1986, c. 4 1986, of a child;

“Treasurer” means the Treasurer of Ontario and Minister of Economics.

2.—(1) The following persons and classes of persons who have not attained sixty-five years of age are members of the Plan: Plan members

R.S.O. 1980,  
c. 418

1. Persons who are civil servants within the meaning of the *Public Service Act*.
2. A class of employees of any agency, board, commission, foundation or organization that is established under an Act of the Legislature and that is designated by order of the Lieutenant Governor in Council as one whose employees in that class are required to be members of the Plan.
3. Persons employed in the Office of the Provincial Auditor.

R.S.O. 1980,  
c. 419

4. Persons required by any Act of the Legislature to be members of this Plan or the pension plan established by the *Public Service Superannuation Act* or a predecessor Act.
5. Any person employed in a capacity or position that is designated by order of the Lieutenant Governor in Council as requiring the employee to be a member of the Plan.

Elective  
membership

- (2) Persons to whom subsection (1) does not apply and who are employed,

R.S.O. 1980,  
c. 418

- (a) by the Crown under the *Public Service Act*;
- (b) by an agency, board, commission, foundation or organization designated by order of the Lieutenant Governor in Council as one whose employees in a designated class are members of the Plan; or
- (c) by an agency, board, commission, foundation or organization the permanent and full-time probationary staff of which are by any Act required to be members of the Plan,

are entitled to be members of the Plan upon filing with the Board a written election to be a member, and after fulfilling any conditions specified in the order mentioned in clause (b).

Idem

- (3) A person appointed by the Lieutenant Governor in Council to membership on an agency, board, commission, foundation or organization is, when the appointment so permits or the position has been designated by the Lieutenant Governor in Council for the purpose of this subsection, entitled to be a member of the Plan upon filing with the Board a written election to be a member, and after fulfilling any conditions specified in the appointment or designation.

Termination  
of  
membership

3. A member ceases to be a member of the Plan upon termination by death or otherwise of the employment, office or circumstances that required or entitled him or her to be a member of the Plan or upon attaining the maximum age for contributors to a pension fund or plan specified under the provisions of the *Income Tax Act* (Canada) and regulations made thereunder for the registration under that Act of a pension fund or plan.

R.S.C. 1952,  
c. 148

Persons not  
entitled to be  
members

4. A person is not entitled to be a member of the Plan if the person,
  - (a) is a member of, or a contributor to, a pension plan to which the Crown contributes other than this Plan or the *Canada Pension Plan*; or

R.S.C. 1985,  
c. C-8

- (b) has attained the maximum age for contributors to a pension fund or plan specified under the provisions of the *Income Tax Act* (Canada) and regulations made thereunder for the registration under that Act of a pension fund or plan.



5.—(1) Subject to section 7, contributions required to be made under this Plan by an employer or by any member, including interest required to be paid to the Fund, shall be paid into the Fund, and any payment required by the Plan to be made to any person shall be made out of the Fund, and all moneys not required to be paid out shall be invested to meet the obligations and liabilities of the Plan.

Contributions  
to and  
payments  
from Fund

(2) The fiscal year of the Plan is the twelve-month period commencing on the 1st day of January in each year.

Fiscal year

6.—(1) Subject to subsection (5), every member shall contribute to the Fund from the salary paid to the member for the calendar year,

Contributions  
by members

(a) 8 per cent of the amount of salary that does not exceed the Year's Basic Exemption as prescribed by the *Canada Pension Plan*;

R.S.C. 1985,  
c. C-8

(b) 6.2 per cent of the amount of salary that exceeds the Year's Basic Exemption and does not exceed the Year's Maximum Pensionable Earnings as prescribed by the *Canada Pension Plan*; and

(c) 8 per cent of the amount of salary in excess of the Year's Maximum Pensionable Earnings as prescribed by the *Canada Pension Plan*.

(2) In addition to the contribution required by subsection (1), every member employed in the Ontario Provincial Police Force shall contribute to the Fund an amount equal to 2 per cent of the salary paid to him or her for the calendar year.

Additional  
contribution

(3) The contributions to be made by a member to the Fund shall be deducted from the member's salary by the person who pays the member's salary, and shall be paid to the credit of the Fund within fifteen days from the date the contribution was deducted or within such longer time as the Board authorizes in writing.

Deduction of  
contributions

(4) A member shall be given credit in the Plan for the time in respect of which contributions to the Fund are made by or on behalf of the member.

Credit for  
contributions

(5) A member may cease to contribute to the Fund on or after attaining sixty-five years of age.

When no  
contribution  
required

(6) Interest calculated as determined by the Board shall be credited to each member in each year of the Plan on the amount of contributions, including interest previously credited to the member, standing to the member's credit in the Fund.

Interest

7.—(1) Unless otherwise expressly stated in the Plan, for each month the employer shall pay into the Fund an amount equal to the amount of contributions paid into the Fund by or on behalf of members in that month.

Contributions  
by employer

(2) If the salary of members who are contributing to the Fund is paid by a board, commission, foundation, agency, branch or division that has a special fund or appropriation designated or granted by the Lieutenant Governor in Council or the Assembly for the payment of the employer's contributions under the Plan, contributions required to be made by the employer shall be made from that fund or appropriation in accordance with such formula as may be determined by the Minister for the purpose.

Special funds

(3) Any amount in the Fund that is indicated by an actuarial valuation for the purpose of the Plan to be surplus to the requirements of the Plan while it continues in existence may, at the direction of the Minister, be applied to the payment of the contributions to be made by the employer

Surplus may  
reduce  
employer  
contributions



under subsection (1) for so long as there is no going concern unfunded actuarial liability or solvency deficiency, as defined in subsection 8 (1) of this Act, in the Plan.

- Surplus** (4) Any amount in the Fund that is indicated by an actuarial valuation for the purpose of the Plan to be surplus to the requirements of the Plan while it continues in existence or upon its wind up may, to the extent permitted by the *Pension Benefits Act, 1987*, be withdrawn by the employer from the Fund.
- 1987, c. 35
- Deficiency** (5) If in any year the amount of cash and assets capable of sale in the Fund is insufficient to meet the payments out of the Fund in the year after the sale of the assets capable of sale, the Treasurer shall pay from the Consolidated Revenue Fund an amount sufficient to make up the deficiency.
- Limitation** (6) Subsection (5) ceases to apply if an agreement mentioned in subsection 6 (5) of this Act is in force.
- Unfunded liabilities** (7) Subject to this Act, the employer shall pay into the Fund the amount indicated in an actuarial valuation to be required to meet any unfunded liabilities of the Plan.
- Leave of absence with pay** 8.—(1) If a member has been granted a leave of absence from employment and continues to receive a part or all of his or her salary during the leave, the member shall make the contributions required by section 6.
- Leave of absence without pay** (2) If a member is granted a leave of absence from employment and receives no salary during the leave, no credit shall be given to the member in the Plan for the period of the leave of absence unless the member contributes to the Fund in accordance with section 11.
- Continued membership on release from employment** 9.—(1) A member who is released from employment and who is designated by the Lieutenant Governor in Council for the purpose of this section continues to be entitled to contribute to the Fund in accordance with this section until the end of the month in which the member becomes eligible for a pension under section 15, or until the expiration of five years from the member's release from employment, whichever first occurs.
- Contributions** (2) Contributions by or on behalf of a member mentioned in subsection (1) shall be made on the basis of the member's annual salary rate immediately before the member was released from employment.
- Long term income protection** 10.—(1) In this section, "long term income protection plan" means the Long Term Income Protection Plan from time to time applicable to members who are public servants, as defined in the *Public Service Act*, to mitigate the loss of income resulting from a lengthy disability, and includes any plan that applies to members who are not public servants if the Board considers the plan to be substantially similar to the Long Term Income Protection Plan applicable to public servants.
- R.S.O. 1980, c. 418
- Contribution on behalf of disabled member** (2) If a member qualifies for a benefit under a long term income protection plan as a result of a disability incurred on or after the 1st day of July, 1974, the employer that employed the member on the date when the member qualified for the benefit shall, subject to subsection (6), contribute to the Fund on behalf of the member the amounts set out in subsections (3), (4) and (5) while the member continues to qualify for the benefit.
- Amount** (3) Subject to subsection (4), the contributions mentioned in subsection (2) shall be calculated in accordance with section 6 and paid on the annual salary rate of the member immediately before the disability was incurred in respect of which he or she qualifies for a benefit.

(4) If the member mentioned in subsection (2) was, in the opinion of the Board, employed on a part-time basis in the month before the disability was incurred, the contributions mentioned in subsection (2) shall be calculated in accordance with section 6 and paid only for that part of each month in which the member continues to qualify for the benefit that is equal to the ratio that, in the twelve months ending on the last day of the month immediately preceding the month when the disability was incurred, the member's part-time employment is of full-time employment in the position occupied by the member or in a comparable position.

Part-time  
employment

(5) The annual salary rate on which contributions under this section are based shall be increased in each year following the year in which the member first qualified for a benefit by the same percentage as would be applicable if the annual salary rate of the member immediately before the cessation of employment as a result of disability were increased in each subsequent year during which the member remains entitled to benefits under the Long Term Income Protection Plan in the same manner as an adjusted pension is increased in each year by the adjustment for inflation under section 24.

Increased  
contribution

(6) Subsections (2), (3), (4) and (5) continue to apply whether or not the member is in receipt of the benefit under the Long Term Income Protection Plan, but those subsections cease to apply when the member ceases to be a member, accrues thirty-five years of credit in the Plan or attains sixty-five years of age, whichever first occurs.

When  
contributions  
cease

(7) A person on whose behalf contributions are made under subsection (2) continues to be a member of the Plan and to accrue credit in the Plan for the time in respect of which contributions are made on his or her behalf under this section.

Continued  
membership

(8) The annual salary rate on which contributions are based under this section shall be included in the computation of the average annual salary of a member on whose behalf contributions are made under this section.

Average  
annual salary

11.—(1) On such terms and conditions as are fixed by the Board, a member may purchase credit in the Plan,

Prior service  
with the  
Crown, etc.

(a) for a period of active service during World War II or the Korean War in His or Her Majesty's naval, army or air forces, in the Canadian or British merchant marine, or in any naval, army or air force that was allied with His or Her Majesty's forces and that is designated by order of the Lieutenant Governor in Council;

(b) for a period of service with an employer who contributed to the Fund or a predecessor fund throughout the period, and for which the member has no credit in the Plan and no claim for pension benefits from the Plan;

(c) for a period of employment by a person who did not contribute to the Fund or a predecessor fund for the period, if the period is before the member's becoming a member and if,

(i) during that period of service, the person provided to employees a pension plan that is or was a pension plan registered under the *Income Tax Act* (Canada), and

R.S.C. 1952,  
c. 148

(ii) the period, if any, for which credit in the plan referred to in subclause (i) was given to the member is reduced by the period for which credit in the Plan is purchased so that credit in the Plan is not given for any part of the period for which credit is retained in the plan referred to in subclause (i);

- (d) for a leave of absence without pay for more than one month for special or educational purposes; or
- (e) for a leave of absence without pay for more than one month because of illness, pregnancy or adoption of a child.

**Payment**

(2) To purchase credit referred to in clause (1) (c), a member shall pay to the Fund the amount determined by the Board on the recommendation of the actuary to be equal to the actuarial value of the additional expected benefits to which the member will become entitled because of obtaining the credit.

**Idem**

(3) To purchase the credit referred to in clause (1) (b) or (e), a member shall pay to the Fund an amount equal to the product of,

- (a) the annual salary rate of the member on the date when the member's written application containing all information required by the Board for the purchase of the credit is received by the Board;
- (b) the contribution rates determined under subsection 6 (1); and
- (c) the length in years of the period of prior service for which credit is purchased.

**Idem**

(4) Despite subsection (3), if any payment has been made from the Fund or a predecessor fund in respect of the service for which credit is being purchased under clause (1) (b), and if the total amount paid, including interest thereon at such rate as the Board determines, exceeds the amount determined under subsection (3) for the purchase of that credit in the Plan, the member making the purchase shall pay the higher amount.

**Idem**

(5) To purchase credit referred to in clause (1) (a) or (d), a member shall pay to the Fund an amount equal to the product of,

- (a) the annual salary rate of the member on the date when the member's written application containing all information required by the Board for the purchase of the credit is received by the Board;
- (b) twice the contribution rates determined under subsection 6 (1); and
- (c) the length in years of the period of prior service for which credit is purchased.

**Limitation**

(6) Any credit referred to in subsection (1) may be purchased only if application therefor is made to the Board in writing within twenty-four months after the latest of,

- (a) the day on which the member for whom credit is to be purchased became a member of the Plan;
- (b) the last day of the most recent continuous period for which credit is being purchased; or
- (c) the 31st day of December, 1989.

**Instalments**

(7) If the amount payable by a member to purchase credit under this section exceeds \$500, the amount may be paid in such number of instalments of principal and interest over a period of not more than ten years as the Board permits in accordance with terms and conditions established for instalment payments and for the completion of payment on the death or retirement from employment of the member.



(8) The employer is not required to pay to the Fund an amount equal to a payment made by any person under subsection (2), (5) or section 36.

Matching  
payments  
required

12. The Board shall cause a record to be kept of each member's contributions to the Fund, of the total period of service for which a member has credit in the Plan, and of the annual salary rates of each member while a member and of all other information necessary for the administrative, actuarial and financial requirements of the Plan.

Contribution,  
salary and  
service  
record

13.—(1) A member who has not attained sixty-five years of age and who ceases to be a member of the Plan before completing a continuous period of twenty-four months of membership and with credit in the Plan of less than two years is entitled to the refund provided by either or both of subsections (12) and (13), as the case requires.

Refunds  
before  
twenty-four  
months  
membership

(2) A member who has not attained sixty-five years of age and who ceases to be a member of the Plan after completing a continuous period of twenty-four months of membership or with two or more years of credit in the Plan and before completing ten years of continuous membership and with credit in the Plan for less than ten years is entitled to the refund provided by subsection (12).

Refund  
before ten  
years  
membership

(3) A member who, for reasons other than the member's death or disability, ceases to be a member of the Plan before attaining forty-five years of age and after completing a continuous period of ten or more years of membership or with ten or more years of credit in the Plan is entitled to the refund provided by subsection (12) if the member does not elect a deferred pension in respect of his or her credit in the Plan for service or membership prior to the 1st day of January, 1987.

Refund  
before age  
forty-five

(4) A member who has attained sixty-five years of age and who ceases to be a member of the Plan before completing a continuous period of twenty-four months of membership and with credit in the Plan of less than two years is entitled to the refund provided by either or both of subsections (12) and (13), as the case requires, and to the payment provided by subsection (14).

Refund after  
age sixty-five

(5) A member who has attained sixty-five years of age and who ceases to be a member of the Plan after completing a continuous period of twenty-four months of membership or with two or more years of credit in the Plan and before completing ten years of continuous membership and with credit in the Plan for less than ten years is entitled to the refund provided by subsection (12) and to the payment provided by subsection (14).

Idem

(6) When the cessation of membership referred to in subsection (1), (2), (4) or (5) occurs because of the death of the member, and the member is not survived by a child or children under eighteen years of age or by a spouse from whom the member is not living separate and apart at the member's death, the refund mentioned in those subsections, but not a payment described in subsection (14), shall be paid to the member's estate.

Refund on  
death where  
no survivor

(7) If a member dies while a member of the Plan and after completing a continuous period of ten or more years of membership or with ten or more years of credit in the Plan and, if the member is not survived by a child or children under eighteen years of age or by a spouse from whom the member is not living separate and apart at the member's death, the member's estate is entitled to be paid the refund provided by subsection (12).

Idem

(8) Despite subsections (1), (2), (4) and (5), if the cessation of membership referred to in those subsections occurs because of the death of the member, and the member is survived by a child or children under eighteen years of age or by a spouse from whom the member is not living separate

Refund on  
death to  
survivor



and apart, the spouse, or if there is no such spouse surviving, the child or children under eighteen years of age is or are, as the case requires, entitled,

- (a) if the death is a cessation of membership referred to in subsection (1) or (4), to the refund provided by either or both of subsections (12) and (13) and to the payment provided by subsection (14); or
- (b) if the death is a cessation of membership referred to in subsection (2) or (5), to the refund provided by subsection (12) and to the payment provided by subsection (14).

Refund when  
contributions  
exceed  
pension

(9) The amount, if any, by which the total of contributions made to the Fund by or on behalf of a member and the interest credited to the member under subsection 6 (6) exceeds the total payments made from the Fund to the member as a former member and as a survivor pension to the former member's spouse or child or children as a result of the former member's death shall be paid to the former member's estate.

Idem

(10) Despite subsection (9), if a former member who is in receipt of a pension dies survived by a child or children under eighteen years of age or by a spouse from whom the former member is not living separate and apart, and if none of them is entitled to a survivor pension under the Plan as a result of the death of the former member, the amount, if any, by which the aggregate of such of the amounts mentioned in subsections (12) and (13) as are applicable and of the additional amount mentioned in subsection (14) exceeds the total payments made from the Fund to the former member shall be paid to the surviving spouse, or if there is no surviving spouse, to the child or children, if any, of the former member under eighteen years of age at the former member's death.

Refund for  
disabled  
member

(11) Despite subsections (1), (2), (4) and (5), a member with credit in the Plan for less than ten years and with less than ten years of continuous membership in the Plan who ceases to be a member because of a mental or physical incapacity that is found by the Board to have rendered the member unable to perform his or her duties is entitled to be paid from the Fund the amount, if any, by which,

- (a) the aggregate of such of the amounts mentioned in subsections (12) and (13) as are applicable and of the additional amount mentioned in subsection (14),

exceeds,

- (b) the aggregate of the amount of the commuted value of any pension benefit for which the member is eligible and the amount of any refund to which the member is entitled under subsection (15).

Pre-1987  
service  
refund

(12) A person entitled to a refund provided by this subsection is entitled to be paid from the Fund an amount equal to the total of the contributions made to the Fund or a predecessor fund by or on behalf of the member in respect of employment or service for any period before the 1st day of January, 1987, together with the interest credited in the Fund to the member.

Post-1986  
service  
refund

(13) A person entitled to a refund provided by this subsection is entitled to be paid from the Fund an amount equal to the total of the contributions made to the Fund or a predecessor Fund by or on behalf of the member in respect of employment or service for any period after the 31st day of December, 1986, together with interest credited in the Fund to the member.

Additional  
payment

(14) A person entitled to a payment provided by this subsection is entitled to be paid from the Fund an additional amount equal to,

- (a) the amount of a refund to which the person is also entitled under either or both of subsections (12) and (13),

less,

- (b) any portion of the amount of the refund that is attributable to a payment made by the person under subsection 11 (2) or (5) or section 36 and interest credited to the member in respect thereof.

(15) The amount by which the total of the contributions, other than contributions made under subsection 11 (2) or (5) or section 36, made to the Fund by or on behalf of a member in respect of employment or service for any period after the 31st day of December, 1986 and the interest credited to the member in the Fund on those contributions exceeds one-half of the commuted value, excluding credit in the Plan for contributions made under subsection 11 (2) or (5) or section 36 in respect of employment or service after the 31st day of December, 1986, of the pension or deferred pension in respect of that employment or service to which the member is entitled on ceasing to be a member shall be refunded to the former member. 50 per cent rule

(16) The amount by which the total of the payment to the Fund made under subsection 11 (2) or (5) or section 36 and the interest credited to the member on that payment in accordance with the *Pension Benefits Act, 1987* exceeds the commuted value of the credit in the Plan that was purchased with that payment and that is included in a deferred pension that the member has elected to transfer under subsection 16 (6) shall be refunded to the former member. Excess past service payments refunded 1987, c. 35

(17) A payment or refund to be made under this section shall be paid in a lump sum payment. Lump sum payments

(18) A refund made under this section, other than subsection (15), reduces the member's or former member's credit in the Plan by the period of time in respect of which the refund is calculated. Credit reduced

(19) For the purpose of subsections (6), (7), (8) and (9), a child shall not be deemed to have attained eighteen years of age if the child would not, for the purpose of section 23, be deemed to have attained that age. Interpretation

14.—(1) Every member with ten or more years of credit or with ten or more years of continuous membership in the Plan who is found by the Board to be unable to perform his or her duties by reason of mental or physical incapacity is entitled to a disability pension under this section upon applying therefor to the Board and upon resigning from employment. Disability pension

(2) The Board may at any time review the case of any former member to whom a pension under subsection (1) is paid and, if, in the opinion of the Board, the former member has recovered sufficiently to perform his or her former duties, or to perform other duties in the public service, the Board shall report the case to the Human Resources Secretariat and to the ministry, agency or other organizational unit where the former member was employed immediately before his or her disability, and the former member shall be considered for re-employment. Review by Board

(3) If a former member to whom a pension under this section is paid is offered re-employment after the review referred to in subsection (2), the former member ceases to be entitled to receive payment of any further pension under this section whether or not the offer of re-employment is accepted. Re-employment

Other  
pension  
entitlement  
not affected

(4) The termination of the payment of a pension under this section in accordance with subsection (3) does not affect a former member's right to apply for a pension for which he or she is eligible under any other provision of the Plan.

Pension at  
age sixty-five

15.—(1) Every member who has twenty-four or more months of continuous membership in the Plan or who has two or more years of credit in the Plan and who ceases to be a member of the Plan on or after attaining sixty-five years of age is entitled to a pension computed in accordance with the Plan, except that, if the member has less than ten years of continuous membership and has credit in the Plan for less than ten years, the pension shall be computed only on his or her credit in the Plan for employment or service after the 31st day of December, 1986.

Pension at  
age sixty

(2) Every member who has at least twenty years of credit in the Plan and who ceases to be a member of the Plan on or after attaining sixty years of age is entitled to a pension computed in accordance with the Plan.

Ninety-year  
rule

(3) Every member who has credit in the Plan for a period of time that, when added to the member's age on the date the member ceases to be a member of the Plan, totals at least ninety years is entitled to a pension computed in accordance with the Plan.

Retirement  
from O.P.P.

(4) Every member who has at least thirty years of credit in the Plan, who is a member of the Ontario Provincial Police Force when he or she ceases to be a member of the Plan, and who ceases to be a member of the Plan on or after attaining fifty years of age is entitled to a pension computed in accordance with the Plan.

Payment

(5) Payment of a pension to which a member is entitled under this section shall commence in the month following the month when the member ceases to be a member of the Plan.

Deferred  
pension

16.—(1) Every member who has twenty-four or more months of continuous membership in the Plan or two or more years of credit in the Plan, who ceases to be a member, and who is neither in receipt of a pension provided for in section 14 nor entitled to a pension provided for in section 15 is entitled to a pension computed in accordance with the Plan, except that, if the member has less than ten years of continuous membership and has credit in the Plan for less than ten years, the pension shall be computed only on his or her credit in the Plan for employment or service after the 31st day of December, 1986.

Payment of  
pension  
under  
subs. (1)

(2) Payment of the pension provided for in subsection (1) shall commence in the month following the month when the former member will attain sixty-five years of age or, if the former member so elects in writing to the Board, payment of the pension shall, subject to the reductions mentioned in section 17, commence in the month following any month that is not earlier than the month when the former member will attain fifty-five years of age or later than the month when the former member will attain sixty-five years of age.

Pre-1966  
credit

(3) Every member who, on ceasing to be a member, has credit in the Plan that is equal to a period of time commencing before the 1st day of January, 1966 and ending with the day the member ceases to be a member, and who is neither in receipt of a pension provided for in section 14 nor entitled to a pension provided for in section 15, is entitled to a pension computed in accordance with the Plan.

Payment of  
pension  
under  
subs. (3)

(4) Payment of the pension provided for in subsection (3) shall commence in the month following the month when the former member will attain sixty years of age or, if the former member so elects in writing to the



Board, payment of the pension shall, subject to the reductions mentioned in section 17, commence in the month following any month that is not earlier than the month when the former member will attain fifty years of age or later than the month when the former member will attain sixty years of age.

(5) An election made under subsection (2) or (4) may, with the approval of the Board, be revoked by the member or former member and a fresh election in writing to the Board may be made if the commencement of payment therein provided for is neither earlier than the month following the month when the fresh election is delivered to the Board nor earlier than is permitted by subsection (2) or (4), whichever is applicable, and is not later than the latest month permitted by subsection (2) or (4), whichever is applicable, but no election may be revoked after payment of the pension is due to commence.

Revocation  
of election

(6) A former member who is entitled to a pension under subsection (1) or (3) and who has not attained fifty-five years of age in the case of a pension mentioned in subsection (1) or has not attained fifty years of age in the case of a pension mentioned in subsection (3) may require the commuted value of the pension to be paid, subject to section 43 of the *Pension Benefits Act, 1987* and to the regulations made under that Act,

Transfer of  
commuted  
value of  
pension

1987, c. 35

(a) to the pension fund of another pension plan that agrees to accept the payment;

(b) into a retirement savings arrangement prescribed under the *Pension Benefits Act, 1987*; or

(c) for the purchase for the former member of a deferred life annuity under which payments will not commence before the former member attains fifty-five years of age, if the pension the commuted value of which is paid is mentioned in subsection (1), or fifty years of age, if the pension the commuted value of which is paid is mentioned in subsection (3), and if the contract to purchase the annuity meets the requirements prescribed under the *Pension Benefits Act, 1987*.

17.—(1) Subject to subsections 15 (1) and 16 (1) and to the other subsections of this section, the annual amount of every pension payable to a former member is 2 per cent of the former member's average annual salary multiplied by the former member's years of credit in the Plan, including any fraction of a year, to a maximum of thirty-five years.

Computation  
of pension

(2) The annual amount of pension payable to a former member who, on ceasing to be a member, has credit in the Plan that is equal to a period of time commencing before the 1st day of January, 1966 and ending with the day the member ceases to be a member, who has not attained sixty-five years of age, and while the former member is not in receipt of a disability pension under the *Canada Pension Plan* shall be computed in accordance with subsection (1) as though the reference to sixty consecutive months in determining the former member's average annual salary were a reference to thirty-six consecutive months and shall be paid, subject to the reduction required by subsection (5), until the former member attains sixty-five years of age or receives a disability pension under the *Canada Pension Plan*, and upon the occurrence of either of those events, the former member's pension shall be recomputed in accordance with subsection (1) without reference to this subsection.

Pension for  
pre-1966  
credit

R.S.C. 1985,  
c. C-8

(3) When a former member,

CPP  
reduction

(a) who is in receipt of a pension attains sixty-five years of age or receives a disability pension under the *Canada Pension Plan*; or



- (b) who is not in receipt of a pension commences to receive a pension on or after attaining sixty-five years of age,

the annual amount of the pension computed under subsection (1) shall be reduced by the product of,

- (c) 0.7 per cent of the lesser of,

(i) the former member's average annual salary, and

(ii) the former member's average year's maximum pensionable earnings; and

- (d) the number of years, including any fraction of a year, of the former member's credit in the Plan for service on or after the 1st day of January, 1966 to a maximum of thirty-five years.

Early  
retirement  
reduction

(4) The annual amount of every pension provided for in subsection 16 (1) shall, after computation in accordance with subsection (1), be reduced by five-twelfths of 1 per cent thereof for each month in the period commencing with the first day of the month in which payment of the pension is to commence and ending with the last day of the month when the former member will attain sixty-five years of age, and when the reduction required by subsection (3) is calculated, the reduction required by this subsection applies only to the annual amount of pension payable after giving effect to the reduction required by subsection (3) and shall, if applicable, be recalculated on that basis.

Idem, pre-  
1966 credit  
R.S.O. 1980,  
c. 419

R.S.C. 1985,  
c. C-8

(5) The annual amount of every pension provided for in subsection 16 (3) shall, after computation in accordance with subsection (2), be reduced as required by the *Public Service Superannuation Act*, as it read on the 31st day of December, 1965, and the reduction shall continue until the former member attains sixty-five years of age or receives a disability pension under the *Canada Pension Plan* and, upon the occurrence of either of those events, the former member's pension shall be recomputed in accordance with subsection (1) and reduced as required by subsection (3), and the annual amount of pension payable after that reduction shall be further reduced by five-twelfths of 1 per cent thereof for each month in the period commencing with the first day of the month in which payment of the pension commenced and ending with the last day of the month when the former member attained sixty years of age.

Guarantee  
for pre-1966  
credit

(6) If the annual amount of pension computed in accordance with subsection (1),

- (a) less the reduction required by subsection (3) and, if applicable, subsection (5); and

- (b) plus,

(i) the annual amount of any disability pension to the former member from the *Canada Pension Plan*, or

(ii) the annual amount of pension that the former member would have received from the *Canada Pension Plan* if that pension commenced only on the former member's attaining sixty-five years of age,

other than the part of that pension derived from contributions made to the *Canada Pension Plan* after the former member ceased to be a member of the Plan,

that is payable to a former member who,

- (c) has credit in the Plan that is equal to a period of time commencing before the 1st day of January, 1966 and ending with the day the former member ceased to be a member of the Plan; and
- (d) has attained sixty-five years of age or is receiving a disability pension under the *Canada Pension Plan*,

is less than the annuity or annual amount of allowance that would be payable to the former member under the *Public Service Superannuation Act*, as it read on the 31st day of December, 1965, in respect of the former member's credit in the Plan, the amount of the difference shall be added to the annual amount of the pension computed in accordance with subsection (1) that is payable after making the reductions required by subsection (3) and, if applicable, subsection (5).

R.S.O. 1980,  
c. 419

(7) There shall be excluded from the period of time mentioned in subsection 16 (3) and subsections (2) and (6) any period of time for which a former member has credit in the Plan and for which the former member was employed by a person who did not, during or after that period of time, contribute to the Fund or a predecessor fund under the Plan or the *Public Service Superannuation Act*.

Exception to  
guarantee

(8) If, on the first day of the month when payment of the pension to a former member is to commence, the former member has a spouse from whom the former member is not living separate and apart, the annual amount of the former member's pension computed in accordance with this section, other than this subsection, shall be reduced in such manner as the Board approves to reflect the following rules:

Reduction  
for survivor  
pension

1. Determine the present value of the pension payable to the former member and the spouse on the assumption that a survivor pension is payable to the spouse equal to one-half of the former member's pension computed in accordance with this section, other than this subsection, that the survivor pension is payable for the lifetime of the surviving spouse, and that, if the spouse was not the spouse of the former member when the former member ceased to be a member of the Plan, no survivor pension is payable to the spouse.
2. Determine the reduction in the amount of the former member's annual amount of pension computed in accordance with this section, other than this subsection, that is required in order to provide to the spouse of the former member, at the present value determined under paragraph 1, the survivor pension provided by subsection 19 (1).
3. Reduce the annual amount of the former member's pension computed in accordance with this section, other than this subsection, by the amount of the reduction determined under paragraph 2.

(9) If a computation under this section involves a part of a year, the part shall be determined on the basis of full months, and,

Computation  
of partial  
year

- (a) any part of a month that is less than fifteen days shall be disregarded; and
- (b) any part of a month that is fifteen days or more shall be deemed to be a month.

18.—(1) The Board is not required to commence payment of a pension to which a person is entitled under the Plan until a written application is delivered to the Board setting out such information as is prescribed and

Application  
for pension

such information as is, in the opinion of the Board, necessary to establish the person's entitlement to the pension and the amount thereof.

- Payment (2) Unless otherwise expressly provided in this Plan, a pension,
- (a) is payable in monthly instalments for life; and
  - (b) ceases to be payable after the month when the person in receipt of the pension dies or entitlement to payment of the pension ceases.
- Commutation of pension (3) If a person is entitled to be paid a pension the annual amount of which, before the reductions mentioned in subsections 17 (4) and (5), is not more than,
- (a) 2 per cent of the Year's Maximum Pensionable Earnings as prescribed by the *Canada Pension Plan*; or
  - (b) such greater amount as is permitted by the *Pension Benefits Act*, 1987,
- R.S.C. 1985, c. C-8  
1987, c. 35

in the year when the member for whose credit in the Plan the pension is payable ceased to be a member of the Plan, the Board may pay the commuted value of the pension to the person.

- Pension to surviving spouse **19.**—(1) Subject to subsections (2) and (3), if, on the first day of the month in which payment of a pension to a former member is to commence, the former member has a spouse from whom the former member is not living separate and apart, the spouse is, if he or she survives the death of the former member, entitled to be paid for his or her lifetime an annual amount of pension equal to 60 per cent of the annual amount of pension that the former member is entitled to receive in the month when the former member dies, and payment thereof shall commence in the month following the month when the former member dies.

- Death before age sixty-five (2) If a survivor pension under subsection (1) or subsection 21 (1) is payable as the result of the death of a former member before attaining sixty-five years of age and before the reduction of his or her pension in accordance with subsection 17 (3), the annual amount of pension on which the survivor pension is based shall be reduced in accordance with that subsection as though the former member had attained sixty-five years of age immediately before his or her death.

- Waiver of survivor pension (3) Despite subsection (1), a member or former member and the spouse of the member or former member from whom the member or former member is not living separate and apart,
- (a) may elect that the spouse receive a survivor pension under subsection (1) of 50 per cent rather than 60 per cent if the member or former member and the spouse are not or were not living separate and apart when the member or former member ceases or ceased to be a member of the Plan; or
  - (b) may waive the spouse's entitlement to a survivor pension under subsection (1) if the member or former member and the spouse are or were living separate and apart when the member or former member ceases or ceased to be a member of the Plan,

by delivering to the Board within twelve months prior to the month when payment of the pension to the member or former member is to commence a written direction in the form approved by the Board and signed by both of them or a certified copy of a domestic contract, within the meaning of Part IV of the *Family Law Act*, 1986, containing the election or waiver.



(4) Persons who have delivered a waiver or election under subsection (3) may jointly cancel the waiver or election by written notice of cancellation signed by them and delivered to the Board before the month when the pension is to commence to be paid to the member or former member.

Revocation  
of waiver or  
election

(5) The reduction required by subsection 17 (8) shall not be made if an election or waiver made as permitted by subsection (3) is in force in the month when the pension is to commence to be paid to the member or former member.

Reduction  
not to be  
made

(6) On the death of a spouse to whom a survivor pension is paid under this section, section 20 or 23, an annual amount of pension equal to that survivor pension is payable to or among such of the child or children of the former member on whose death the survivor pension became payable to the spouse as are, at the death of the spouse, under eighteen years of age until each child attains that age or dies under that age, and the share of the children who attain that age or die under that age accrues to the child or children, if any, remaining under that age.

Survivor  
pension to  
child on  
death of  
spouse

20.—(1) The amount of the survivor pension payable under section 19 may be increased to 65 per cent, 70 per cent or 75 per cent of the pension of the former member, after taking into account the reduction required by subsection (4), by a written direction signed by the member or former member on whose pension the survivor pension is based specifying the percentage to which the survivor pension is to be increased, and the direction shall be delivered to the Board at least two years prior to the month when payment of the pension to the member or former member is to commence.

Increased  
survivor  
pension

(2) The Board shall accept a direction mentioned in subsection (1) that is delivered to the Board after the time mentioned in that subsection and before the month when the pension is to commence to be paid to the member or former member if the Board is satisfied that the member or former member is in good health having regard to his or her age.

Idem

(3) A direction delivered in accordance with subsection (1) or accepted in accordance with subsection (2) is of no effect if the member who gives it dies while a member of the Plan.

When  
direction not  
valid

(4) The annual amount of pension computed in accordance with section 17 payable to a former member who has given a valid direction delivered in accordance with subsection (1) or accepted in accordance with subsection (2) shall be actuarially reduced in a manner approved by the Board to reflect the increased survivor pension specified in the direction and the increased survivor pension shall be paid in lieu of that provided for in section 19.

Actuarial  
reduction of  
pension

(5) A person who gives a direction mentioned in subsection (1) or (2) may revoke the direction by a written revocation delivered to the Board before the month when payment of the person's pension is to commence.

Revocation  
of direction

21.—(1) Subject to subsection 19 (2), a former member who, after commencing to receive a pension and when the former member has no spouse entitled to a survivor pension under section 19, becomes the spouse of a person who would not be entitled on the death of the former member to a survivor pension under section 19 may in writing direct the Board to pay to the person, if he or she survives the death of the former member, a survivor pension for life of 50 per cent, 55 per cent, 60 per cent, 65 per cent, 70 per cent or 75 per cent of the pension received by the former member immediately before his or her death.

Post-  
retirement  
marriage

(2) A direction mentioned in subsection (1) must be delivered to the Board,

Time limit



- (a) within ninety days after the date on which the former member became the spouse of the person to whom the survivor pension is directed to be paid; or
- (b) if immediately before the person becomes the spouse of the former member there is a child of the former member who would be entitled on the former member's death to receive a pension, within ninety days after the date the child ceases to be entitled to receive the pension.

## Exception

(3) The Board may accept a direction mentioned in subsection (1) and delivered after the time mentioned in subsection (2) if the Board is satisfied that the former member giving the direction is in good health having regard to his or her age.

## Actuarial reduction of pension

(4) The annual amount of pension payable to a former member who has given a valid direction in accordance with this section shall be actuarially reduced in a manner approved by the Board to reflect the survivor pension directed to be paid and, subject to subsection (5), the survivor pension shall be paid in the percentage specified in the direction to the spouse if he or she survives the death of the former member.

## Prior interest of child

(5) A survivor pension under this section shall not be paid while there is a child of the deceased former member entitled to receive a pension as a result of the death of the former member.

## Survivor pension on death before payment of pension

**22.—(1)** If a member who has twenty-four or more months of continuous membership or two or more years of credit in the Plan,

- (a) dies while a member of the Plan; or
- (b) dies after ceasing to be a member of the Plan and before the beginning of the month when payment of his or her pension is to commence,

the commuted value, as determined by the Board, of the member's or former member's pension benefit determined immediately prior to his or her death and on the basis only of his or her credit in the Plan for employment or service after 1986 is payable,

- (c) to the spouse of the member or former member from whom the member or former member is not living separate and apart;
- (d) if no payment under clause (c) can be made, or if the member or former member has no spouse who survives the date of death of the member or former member, to the beneficiary designated in accordance with this section by the member or former member; or
- (e) if no payment can be made under clause (c) or (d), to the estate of the member or former member.

## Payment to spouse

(2) Subject to subsection (3), the commuted value payable under subsection (1) to the spouse of a member or former member shall be paid in the form of an immediate pension for the lifetime of the spouse, and the commuted value of the pension so payable shall be equal to the commuted value payable under subsection (1), and payment thereof shall commence in the month following the month when the member or former member dies.

## Election by spouse

(3) The spouse to whom an immediate pension is payable under subsection (2) may, in writing in the approved form delivered to the Board in the time fixed by the Board, elect to receive the commuted value payable under subsection (1) in the form of,

- (a) a single lump sum payment equal to the commuted value payable under subsection (1); or
- (b) a deferred pension the commuted value of which is equal to the commuted value payable under subsection (1).

(4) A member or former member and his or her spouse may, by written waiver in the approved form delivered to the Board in the time fixed by the Board, waive the spouse's entitlement under subsection (1) and, while the waiver is in effect, that subsection shall be applied as if the member or former member does not have a spouse on the date of the death of the member or former member.

Waiver of spouse's entitlement

(5) The designation of a beneficiary for the purpose of this section shall be made and delivered to the Board in such form and manner as the Board requires.

Designation of beneficiary

23.—(1) If a member who has ten or more years of credit in the Plan or has ten or more years of continuous membership in the Plan dies while a member of the Plan, or dies after ceasing to be a member of the Plan and before the beginning of the month when payment of his or her pension is to commence, an annual amount of pension equal to one-half of the member's or former member's pension computed in accordance with section 17 as though the member or former member had attained sixty-five years of age and on the basis only of his or her credit in the Plan for employment or service before 1987 is payable,

Survivor pension for pre-1987 credit

- (a) to the spouse of the member or former member from whom the member or former member, at his or her death and at the cessation of his or her membership in the Plan, was not living separate and apart; or
- (b) if no payment under clause (a) can be made, to or among such of the child or children of the member or former member as are, at the death of the member or former member, under eighteen years of age until each child attains that age or dies under that age, and the share of each of the children who attains that age or dies under that age accrues to the child or children, if any, remaining under that age.

(2) Payment of a survivor pension under this section shall commence in the month following the month when the member or former member dies, and the survivor pension payable to a spouse under this section is payable for the life of the spouse.

Payment

(3) For the purpose of this section and subsection 19 (6), a child who has attained eighteen years of age shall be deemed not to have attained that age if, since attaining that age, the child has been, in the opinion of the Board, continuously in full-time attendance at either or both of,

Exception for higher education

- (a) a secondary school; or
- (b) for five years following secondary school, a post-secondary educational institution that is recognized as such by the Board.

24.—(1) In the formulas in this section,

Inflation adjustment

"A" is the carry forward determined for the immediately preceding year,

"B" is the basic ratio for the year,

"C" is the adjustment ratio for the year,

"D" is the basic ratio for the year next following the year when the member for whose credit in the Plan the pension in respect of which the formula is applied is payable ceased to be a member of the Plan, and shall be calculated to a maximum of 1.080 or to a minimum of 1.000, and

"E" is the number of full months in the year that are after the month in the year when the member for whose credit in the Plan the pension in respect of which the formula is applied is payable ceased to be a member of the Plan.

#### Definitions

##### (2) In this section,

"accumulated adjustment ratio", for the pension of a person, means the product of the multiplication of all adjustment ratios for the years in the period commencing with the year when the member for whose credit in the Plan the pension is payable ceased to be a member of the Plan and ending with the year for which the accumulated adjustment ratio is being determined;

"adjustment ratio", for the pension of a person, means,

- (a) for any year before the year 1976 and for the year when the member for whose credit in the Plan the pension is payable ceased to be a member of the Plan, 1.000,
- (b) if the member for whose credit in the Plan the pension is payable ceased to be a member of the Plan in or after the year 1975, for the year next following the year when the member for whose credit in the Plan the pension is payable ceased to be a member of the Plan, the ratio determined by the formula

$$"[(D - 1.000) \times E / 12] + 1.000", \text{ and}$$

- (c) for the later of the year 1976 and the second year after the year when the member for whose credit in the Plan the pension is payable ceased to be a member of the Plan and for any subsequent year, the ratio determined by the formula "A + B" calculated to a maximum of 1.080 or to a minimum of 1.000;

"basic ratio", for a year, means the ratio expressed to three decimal places that the average for the Consumer Price Index over the last twelve months of the twenty-four-month period ending with the 30th day of September in the immediately preceding year bears to the average for the Consumer Price Index over the first twelve months of that period;

"carry forward", with respect to the pension of a person, means,

- (a) for any year before the year 1976, for the year when the member for whose credit in the Plan the pension is payable ceased to be a member of the Plan and for the year next following that year, nil, and
- (b) for the later of the year 1976 and the second year following the year when the member for whose credit in the Plan the pension is payable ceased to be a member of the Plan and for any subsequent year, the positive or negative number determined by the formula "A + B - C";

"Consumer Price Index" means the Consumer Price Index for Canada as published by Statistics Canada under the authority of the *Statistics Act* (Canada);



“member” includes a contributor within the meaning of the *Public Service Superannuation Act* or a predecessor Act; R.S.O. 1980, c. 419

“pension” means a pension to which a person is entitled from the Plan other than the adjustment for inflation provided by this section, and an allowance, annuity, deferred annuity or other periodic payments to which a person has become entitled under the *Public Service Superannuation Act* or a predecessor Act; R.S.O. 1980, c. 419

“Plan” includes the pension plan established under the *Public Service Superannuation Act* and any predecessor Act.

(3) The annual amount of pension payable to a person from the Fund shall, commencing with the year when payment of the pension is to commence and in each subsequent year that the pension continues to be payable, be adjusted for inflation by multiplying the annual amount of the pension by the accumulated adjustment ratio for the pension of the person for that year, and the amount by which the pension thus adjusted exceeds the annual amount of pension before the adjustment in each year shall be paid to the person entitled to receive the pension for which it is calculated at the same times, in the same manner and subject to the same terms and conditions as apply to the pension in respect of which it is paid. Payment of inflation adjustment

(4) The ratio determined for the year 1990 under the *Superannuation Adjustment Benefits Act* does not apply to a pension to which this section applies. Ratio not to apply R.S.O. 1980, c. 490

25.—(1) A full-time employee who is permitted to continue the duties of his or her position as a part-time employee in accordance with this section for the final years of his or her employment in the public service is entitled to have his or her pension determined in accordance with this section if the employee meets all of the conditions set out in subsection (2) and gives the notice of election required by subsection (3). Pre-retirement part-time employment

(2) The conditions referred to in subsection (1) are, Conditions

(a) that the employee's part-time employment must be and continue to be,

(i) in a position that requires regular employment for at least fourteen hours per week or nine full days in each four weeks, or

(ii) full-time employment in a classified position in the civil service for at least one-third of each twelve-month period or part thereof following the giving of the notice required by subsection (3) and before the employee's retirement on the date provided for in the notice;

(b) that the employee must not be employed as a regular full-time employee in the public service at any time after giving the notice required by subsection (3) and before receiving a pension under the Plan;

(c) that during the period of part-time employment specified by the employee in the notice given in accordance with subsection (3), contributions are made to the Fund by the employee and the employer on the basis of the salary payable for full-time employment in the position held by the employee immediately before the giving of the notice; and



- (d) that the employee's deputy minister must approve in writing the change from full-time to part-time employment proposed by the employee.

## Notice

(3) A full-time employee who wishes to contribute to the Fund on the basis provided for in this section shall give to his or her deputy minister a written notice signed by the employee stating,

- (a) that the employee intends to retire from employment in the public service not later than five years after the day on which the notice is given;
- (b) that the employee wishes to perform the duties of his or her position on a part-time basis until retirement from employment; and
- (c) that the employee wishes to continue to contribute to the Fund on the basis of his or her salary as a full-time employee in the position.

## Pension on basis of full-time employment

(4) Despite the definition of "annual salary rate" and "credit", while an employee continues to comply with the conditions described in subsection (2),

- (a) contributions shall be made to the Fund by the employee and the employer on the basis of the salary payable for full-time employment in the position held by the employee immediately before the giving of the notice;
- (b) the employee's annual salary rate shall be that on which contributions to the Fund are paid; and
- (c) the employee shall be given credit in the Plan on the basis of full-time employment in the position in which the employee is employed part-time.

## Resuming full-time employment

(5) If an employee who contributes to the Fund in accordance with this section resumes full-time employment in the public service after giving the notice required by subsection (3) and before receiving his or her pension, the employee's contributions to the Fund and credit in the Plan shall be recomputed without reference to subsection (4).

## Excess contributions refunded

(6) Contributions to the Fund under this section in excess of those required after the application of subsection (5) shall be refunded to the person who paid them.

## Interpretation R.S.O. 1980, c. 418

(7) In this section, "public service" has the same meaning as in the *Public Service Act*.

## Re-employment of pensioner

26.—(1) If a former member who is receiving a pension is, in the opinion of the Board, re-employed or engaged in any capacity by an employer who contributes to the Fund, any pension that the former member is entitled to receive during the re-employment or engagement shall, for any period of three months commencing on the 1st day of January, April, July or October in any year during which the former member is so re-employed or engaged, be reduced by the amount by which the sum of,

- (a) three times the monthly salary paid to the former member in that period of three months; and
- (b) the pension payable to the former member in that period of three months if this section were not applicable to the former member,

exceeds the product of three times the monthly salary payable to the former member for the last full month of employment before he or she ceased to be a member of the Plan.

(2) Any period of re-employment or engagement referred to in subsection (1) for which a person may and does contribute to the Fund shall be added to the person's credit in the Plan, and any pension payable on termination of the re-employment or engagement shall be recalculated to take into account the additional credit and any pension earlier received by the person. Idem

(3) Despite subsection (1), the pension of a person who is appointed by the Lieutenant Governor in Council for a period not exceeding six months at a time to provide to the Crown the professional, expert or technical knowledge of the person in a special capacity required by the Crown shall not be reduced if the appointment so provides. Re-employment in expert capacity

27.—(1) Every transaction that purports to assign, charge, anticipate or give as security the interest, or any part thereof, of any person in the Fund or in any pension or other sum payable out of the Fund is void. Void transactions

(2) The interest of any person in the Fund or in any pension or other sum payable out of the Fund is exempt from execution, seizure or attachment. Exemption from seizure

(3) Subject to section 52 of the *Pension Benefits Act*, 1987, subsections (1) and (2) do not apply to prevent the operation of any order under the *Family Law Act*, 1986 or the provisions of a domestic contract, as defined in Part IV of that Act. Order or separation 1987, c. 35 1986, c. 4

(4) Subsections (1) and (2) do not apply to prevent execution, seizure or attachment in satisfaction of an order for support or maintenance enforceable in Ontario to a maximum of one-half of the interest of any person in the Fund or in any pension or other sum payable out of the Fund. Order for support or maintenance

(5) Subsection (4) applies to orders of support or maintenance enforceable in Ontario whether made before or after the 31st day of December, 1989. Application of subs. (4)

(6) Despite subsections (1) and (2), if a person entitled to a refund or a lump-sum payment from the Fund requests the Board in writing to have the refund or payment paid, Payment into other funds

(a) into another registered pension plan;

(b) into a registered retirement savings plan that meets the requirements of the *Income Tax Act* (Canada); R.S.C. 1952, c. 148

(c) to an insurance company to purchase an immediate or deferred life annuity; or

(d) into a pension plan approved by the Board,

the refund or payment shall be so paid.

28.—(1) A payment to be made under the Plan to a member's estate may be made to the executor or administrator of the member's estate or to the person or persons who appear to the Board to be properly acting in the administration or distribution of the member's estate or, if no executor or administrator or other person acting in the administration or distribution of the member's estate can be ascertained to the satisfaction of the Board, the Payment to estate

payment may be paid into the Supreme Court of Ontario to the credit of the member's estate.

Missing  
beneficiary

(2) If, after the death of a person, no spouse or child or designated beneficiary of that person can be found entitled to receive a pension on the person's death, and the Board is satisfied that reasonable inquiries have been made to find the spouse or child or designated beneficiary, and more than one year has passed since the death of the person, the Board may, despite any other provision of the Plan, direct that the money that would be payable under the Plan to the person's estate if the person had died leaving no surviving child or spouse or designated beneficiary entitled to be paid a pension on the person's death be paid to the person's estate upon such terms and conditions as the Board determines.

Beneficiary  
later found

(3) If the spouse or child or designated beneficiary referred to in subsection (2) is subsequently found and a claim is made for any money payable under the Plan, the Board may direct that such money, less any money paid under subsection (2), be paid to the spouse or child or designated beneficiary, as the case may be.

Board to be  
corporation

29.—(1) The Public Service Superannuation Board is continued under the name of the Public Service Pension Board and the Board is constituted a corporation without share capital.

Application  
of  
R.S.O. 1980,  
c. 95

(2) The *Corporations Act* does not apply to the Board.

Board  
members

(3) The Board shall be composed of at least four members appointed by the Lieutenant Governor in Council, one of whom shall be representative of the members of the Plan who are members of a union with whom the employer has a collective agreement.

Term of  
office

(4) Each appointment or reappointment of a Board member shall be for such term, not exceeding three years, as the Lieutenant Governor in Council specifies.

Idem

(5) If the Lieutenant Governor in Council considers it appropriate and desirable, members may be appointed to the Board because of their expertise in the management, investment or administration of pension plans or in order to represent on the Board, subject to the requirements of the *Pension Benefits Act, 1987*, the concerns of the Crown, of members required to contribute to the Fund or of persons receiving pensions under the Plan.

1987, c. 35

Reappointment

(6) A member whose appointment has expired may be reappointed to the Board, but no reappointment shall be for a term that, when added to the member's current unbroken period of membership, exceeds six consecutive years of membership.

Chairperson  
and vice-  
chairperson

(7) From the members of the Board, the Lieutenant Governor in Council may designate a chairperson and one or more vice-chairpersons for a term not to exceed two years or such lesser period as the person remains a member of the Board and, if the Lieutenant Governor in Council does not designate a chairperson or vice-chairperson within one month after the position becomes vacant, the members of the Board shall elect one of them to be chairperson, and may elect one or more of them to be vice-chairperson, but the term for which any chairperson or vice-chairperson is elected shall not exceed two years or the remaining period of his or her appointment to the Board, whichever is shorter.



**30.** The Lieutenant Governor in Council shall establish the remuneration or range of remuneration to be paid to a member of the Board and to the chairperson and vice-chairperson, but no member of the Board who is employed in the public service of Ontario shall be paid any remuneration other than reimbursement for expenses actually incurred in the performance of his or her duties as a member of the Board or an honorarium in recognition of pension lost by the public servant for attendance at a meeting of the Board.

Remuneration

**31.—(1)** It is the duty and responsibility of the Board to administer the Plan and manage the Fund in accordance with this Act, the Plan and the *Pension Benefits Act, 1987*.

Duty of Board

1987, c. 35

(2) The Board shall appoint or employ an actuary, an auditor and such officers, employees, advisers, experts and other persons as are required to carry out the duties and responsibilities of the Board.

Employment of officers and others

(3) The Board may make rules and by-laws for the administration and management of the Plan and the Fund and for the conduct of the affairs of the Board and committees of the Board, and may, for such period as the Board determines and on such terms and conditions as the Board considers appropriate, assign or delegate to any officer, employee, member or committee of the Board or other person retained by the Board the performance or exercise of any of the duties or responsibilities of the Board as the Board considers necessary or desirable.

Board may make rules

(4) Without restricting the generality of subsection (3), the Board may make rules,

Idem

- (a) prescribing the proofs to be furnished as a condition to the payment of a pension;
- (b) excluding from salary on which contributions to the Fund are based any payment to a member that is, in the opinion of the Board, not a regular and usual part of the normal remuneration for the member's employment or is a payment in the nature of a special consideration or employee benefit;
- (c) approving forms and providing for their use; and
- (d) requiring members of the Plan, recipients of pensions under the Plan or applicants for pensions under the Plan to furnish information to or for the use of the Board, and prescribing the form thereof and the information to be furnished.

**32.** The Board has and may exercise all of the powers and capacities of a natural person that are considered by the Board to be necessary or incidental to the carrying out of its duties and responsibilities under this Act and the Plan and, in particular, the Board may,

Powers of Board

- (a) contract and be contracted with and sue and be sued;
- (b) acquire by purchase, lease or otherwise any real or personal property for its own use or as an investment of the Fund, and may sell, lease or otherwise dispose of all or any part of its property in its discretion;
- (c) participate with others as a partner or as a member of a syndicate or association of persons in the acquisition, holding, management or disposition of any property by way of investment or otherwise;



- (d) determine the rate of remuneration and the employee benefits and perquisites for its employees and the conditions of employment under which they are employed;
- (e) with the approval of the Management Board of Cabinet, enter into such arrangements as are considered necessary by the Board for the purchase from the Crown of the services of any employee or minister of the Crown, or for the use of any facilities or equipment belonging to the Crown, that may assist the Board in the management or administration of the Plan or the Fund; and
- (f) with the approval of the Lieutenant Governor in Council, enter into an agreement to administer any other pension plan or fund or administer a benefit plan to provide health or medical or other benefits to persons who have ceased to be members of the Plan and are entitled to a pension, and to recover, where appropriate, the costs of such administration from that plan or fund.

Committees      **33.**—(1) The Board may establish such committees as are considered necessary or desirable.

Committee may delegate      (2) A committee established by the Board may, with the approval of the Board and in accordance with the policy established by the committee or the Board, delegate to an officer or employee of the Board any of the duties and responsibilities of the committee, including those delegated to the committee by the Board.

Quorum      **34.** The quorum for any meeting of the Board or a committee of the Board shall be at least a majority of the members of the Board or committee.

Expenses      **35.** The expenses of the operation of the Board, the administration of the Plan and the management of the Fund shall be paid out of the Fund.

Reciprocal transfer agreements continue to apply      **36.**—(1) Any agreement in writing between a person and the Minister or the Crown for the reciprocal transfer of pension credits between the Public Service Superannuation Fund established under the *Public Service Superannuation Act* and another pension plan continues to apply to the Plan with all necessary modifications.

R.S.O. 1980, c. 419

Transfer to Plan of credit in other plans      (2) If the Board enters into a written agreement with an employer to whom the Plan does not extend for the transfer to the Plan of credit for a person's service with that employer, the person shall, on becoming a member and requesting a transfer of credit to the Plan in accordance with the agreement, pay or cause to be paid into the Fund the amount provided for in the agreement for the purchase of the credit that is being transferred.

Transfer to other plan of credit in Plan      (3) If the Board enters into a written agreement for the transfer from the Plan to another pension plan registered under the *Income Tax Act* (Canada) of credit in the Plan in respect of members who become members of the other plan, the Board shall, at the request of a member transferring credit from the Plan in accordance with the agreement, pay from the Fund to the Plan to which the member's credit is being transferred the amount provided for in the agreement for the purchase of credit for the member in the other plan.

R.S.C. 1952, c. 148

Transfer agreements prevail      (4) Subsections (1) to (3) apply despite section 11 or 13.

(5) The Board shall not enter into an agreement mentioned in subsection (2) or (3) until the agreement is approved by the Lieutenant Governor in Council. Approval of agreements

37. After the close of each fiscal year, the Board shall submit to the Minister a report for the fiscal year just ended of the financial and other affairs of the Plan and the Fund, and the Minister shall submit the report to the Lieutenant Governor in Council and shall then lay the report before the Legislative Assembly if it is in session or, if not, at the next session. Annual report

38.—(1) In the reports to the Minister under section 37, the Board shall identify, Report re O.P.P. early retirement benefit

(a) the additional cost to the Plan of the pension provided to members of the Ontario Provincial Police Force by subsection 15 (4) over the cost of the pension or deferred pension that would be payable without that subsection; and

(b) the financial benefit to the Plan from the contributions of members of the Ontario Provincial Police Force under subsection 6 (2), from the employer's contributions made to match contributions under that subsection, and from the return reasonably attributable to the investment of the contributions and of the proceeds received by the Fund from the transfers under subsections 7 (2) and (3) of this Act.

(2) The Board shall also indicate in its reports the sufficiency of the financial benefits referred to in clause (1) (b) to meet the additional costs referred to in clause (1) (a) and whether those additional costs for pensions that are being paid at the end of the year for which the report is made have been met by the financial benefits that have then accrued to the Fund. Idem

39.—(1) Each employee of the Board and his or her heirs, executors and administrators shall be indemnified and saved harmless by the Board from and against all costs, charges and expenses sustained or incurred in or about any action, suit, proceeding or claim against him or her for any act, omission, deed, matter or other thing made, done or permitted or omitted to be made or done in or about the execution of the duties of his or her employment by the Board, and every payment made for the indemnification is an administrative expense of the Board. Indemnification

(2) Indemnification under subsection (1) does not extend to the act or omission to act of any person that was done or omitted to be done dishonestly or in bad faith. Limitation

## SCHEDULE 2

## INTERIM PAYMENTS OF UNFUNDED LIABILITY

	<i>Date of payment</i>	<i>Amount of payment</i>
1.	January 1, 1990	\$7,283,000
2.	February 1, 1990	7,316,000
3.	March 1, 1990	7,349,000
4.	April 1, 1990	7,381,000
5.	May 1, 1990	7,414,000
6.	June 1, 1990	7,448,000
7.	July 1, 1990	7,481,000
8.	August 1, 1990	7,514,000
9.	September 1, 1990	7,548,000
10.	October 1, 1990	7,582,000
11.	November 1, 1990	7,616,000
12.	December 1, 1990	7,650,000
13.	January 1, 1991	7,684,000
14.	February 1, 1991	7,718,000
15.	March 1, 1991	7,753,000
16.	April 1, 1991	7,787,000
17.	May 1, 1991	7,822,000
18.	June 1, 1991	7,857,000
19.	July 1, 1991	7,892,000
20.	August 1, 1991	7,928,000
21.	September 1, 1991	7,963,000
22.	October 1, 1991	7,999,000
23.	November 1, 1991	8,034,000
24.	December 1, 1991	8,070,000
25.	January 1, 1992	8,106,000
26.	February 1, 1992	8,143,000
27.	March 1, 1992	8,179,000
28.	April 1, 1992	8,216,000
29.	May 1, 1992	8,252,000
30.	June 1, 1992	8,289,000
31.	July 1, 1992	8,326,000
32.	August 1, 1992	8,364,000
33.	September 1, 1992	8,401,000
34.	October 1, 1992	8,439,000
35.	November 1, 1992	8,476,000
36.	December 1, 1992	8,514,000

# Bill 37

## **An Act to amend the Assessment Act**

The Hon. B. Grandmaître  
*Minister of Revenue*

*1st Reading*      June 21st, 1989  
*2nd Reading*  
*3rd Reading*  
*Royal Assent*



## EXPLANATORY NOTES

The Bill provides for a reduction in the business assessment of land used by distillers. For the 1989 taxation year, the business assessment is reduced from 140 per cent to 100 per cent of the assessed value of the land. For the 1990 and subsequent taxation years, the business assessment is further reduced to 75 per cent of the assessed value. The Bill provides for compensating grants to the affected municipalities.

The Bill also provides for the release of assessment information on comparable properties, and permits the disclosure of information to municipalities and school boards to assist in their planning.

**SECTION 1.** This amendment reduces the business assessment payable by distillers for the 1989 taxation year to 100 per cent of the assessed value of the land and to 75 per cent for the 1990 and subsequent taxation years.

**SECTION 2.** This section provides authority for the Minister of Municipal Affairs to make grants in 1989, 1990 and 1991 to compensate municipalities for revenue losses resulting from the reduction in business assessment payable by distillers.

**SECTION 3.** This section provides authority for the Minister of Municipal Affairs to make further grants in 1992, 1993 and 1994 to compensate those municipalities in which the losses of revenue resulting from the business assessment reduction for distillers are considered by the Minister to be significant.

**SECTION 4.—Subsection 1.** This amendment extends the existing information disclosure provisions to employees of school boards in addition to assessors and municipal employees.

**Subsection 2.** This section will permit assessors to disclose information to ratepayers to assist them in determining the fairness of their assessments. Actual income and expense information on individual properties may not be disclosed. Municipalities and school boards will be supplied with assessment information to assist them for planning purposes, but not actual income and expense information on individual properties.

## Bill 37

1989

## An Act to amend the Assessment Act

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

**1.** Clause 7 (1) (a) of the *Assessment Act*, being chapter 31 of the Revised Statutes of Ontario, 1980, as re-enacted by the Statutes of Ontario, 1986, chapter 69, section 3, is repealed and the following substituted therefor:

- (a) The business of a distiller for a sum equal to,
  - (i) for the 1989 taxation year, 100 per cent of the assessed value of the land so occupied or used, exclusive of the portion of the land occupied or used for the distilling of alcohol solely for industrial purposes, and for a sum equal to 75 per cent of the assessed value as to such last-mentioned portion, and
  - (ii) for the 1990 and subsequent taxation years, 75 per cent of the assessed value of the land so occupied or used.

**2.** In each of the years 1989, 1990 and 1991, the Minister of Municipal Affairs may make grants, upon such terms and conditions as the Minister considers necessary, to any municipality to compensate the municipality for a loss of tax revenue resulting from the reduction in the rate of business assessment provided by clause 7 (1) (a) of the *Assessment Act*, as re-enacted by section 1 of this Act.

Grants by  
Minister of  
Municipal  
Affairs

**3.** In addition to any grants that may have been paid pursuant to section 2, in each of the years 1992, 1993 and 1994, the Minister of Municipal Affairs may, where the Minister considers that the loss of revenue has been sufficiently significant, make further grants, upon such terms and conditions as the Minister considers necessary, to any municipality to further compensate the municipality for a loss in revenue resulting from the reduction in the rate of business assessment provided

Additional  
grants

by clause 7 (1) (a) of the *Assessment Act*, as re-enacted by section 1 of this Act.

**4.—**(1) Subsection 57 (1) of the said Act is amended by inserting after “municipality” in the second line “or school board”.

(2) Section 57 of the said Act is amended by adding thereto the following subsections:

Exception

(3) Despite subsection (1), upon the request of a person assessed under this Act, an assessor may provide sufficient information on similar real property in the vicinity, other than actual income and expense information on individual properties, to enable the person to determine the fairness of that person's assessment.

Idem

(4) Despite subsection (1), the assessment commissioner shall make available to all municipalities and school boards within the assessment region for which the assessment commissioner is appointed, information sufficient to enable them to meet their planning requirements other than actual income and expense information on individual properties.

Commence-  
ment

**5.** This Act shall be deemed to have come into force on the 1st day of December, 1988.

Short title

**6.** The short title of this Act is the *Assessment Amendment Act, 1989*.

**Bill 37**

*(Chapter 42  
Statutes of Ontario, 1989)*

**An Act to amend the Assessment Act**

**The Hon. B. Grandmaître**  
*Minister of Revenue*

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<i>1st Reading</i>	June 21st, 1989
<i>2nd Reading</i>	July 5th, 1989
<i>3rd Reading</i>	July 13th, 1989
<i>Royal Assent</i>	July 13th, 1989

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**Bill 37**

**1989**

## **An Act to amend the Assessment Act**

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

**1.** Clause 7 (1) (a) of the *Assessment Act*, being chapter 31 of the Revised Statutes of Ontario, 1980, as re-enacted by the Statutes of Ontario, 1986, chapter 69, section 3, is repealed and the following substituted therefor:

- (a) The business of a distiller for a sum equal to,
  - (i) for the 1989 taxation year, 100 per cent of the assessed value of the land so occupied or used, exclusive of the portion of the land occupied or used for the distilling of alcohol solely for industrial purposes, and for a sum equal to 75 per cent of the assessed value as to such last-mentioned portion, and
  - (ii) for the 1990 and subsequent taxation years, 75 per cent of the assessed value of the land so occupied or used.

**2.** In each of the years 1989, 1990 and 1991, the Minister of Municipal Affairs may make grants, upon such terms and conditions as the Minister considers necessary, to any municipality to compensate the municipality for a loss of tax revenue resulting from the reduction in the rate of business assessment provided by clause 7 (1) (a) of the *Assessment Act*, as re-enacted by section 1 of this Act.

Grants by  
Minister of  
Municipal  
Affairs

**3.** In addition to any grants that may have been paid pursuant to section 2, in each of the years 1992, 1993 and 1994, the Minister of Municipal Affairs may, where the Minister considers that the loss of revenue has been sufficiently significant, make further grants, upon such terms and conditions as the Minister considers necessary, to any municipality to further compensate the municipality for a loss in revenue resulting from the reduction in the rate of business assessment provided

Additional  
grants

by clause 7 (1) (a) of the *Assessment Act*, as re-enacted by section 1 of this Act.

**4.—(1)** Subsection 57 (1) of the said Act is amended by inserting after “municipality” in the second line “or school board”.

**(2)** Section 57 of the said Act is amended by adding thereto the following subsections:

Exception

(3) Despite subsection (1), upon the request of a person assessed under this Act, an assessor may provide sufficient information on similar real property in the vicinity, other than actual income and expense information on individual properties, to enable the person to determine the fairness of that person’s assessment.

Idem

(4) Despite subsection (1), the assessment commissioner shall make available to all municipalities and school boards within the assessment region for which the assessment commissioner is appointed, information sufficient to enable them to meet their planning requirements other than actual income and expense information on individual properties.

Commence-  
ment

**5.** This Act shall be deemed to have come into force on the 1st day of December, 1988.

Short title

**6.** The short title of this Act is the *Assessment Amendment Act, 1989*.

# Bill 38

## An Act to amend the Landlord and Tenant Act

Mr. Philip  
(*Etobicoke-Rexdale*)

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*1st Reading*      June 22nd, 1989  
*2nd Reading*  
*3rd Reading*  
*Royal Assent*

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#### EXPLANATORY NOTE

The purpose of the Bill is to make void any provision in a tenancy agreement prohibiting a tenant from keeping a pet in a rented residential premises. An exception is provided in the case of rental of a condominium unit if the declaration for that condominium prohibits owners from keeping pets.

**Bill 38**

**1989**

## **An Act to amend the Landlord and Tenant Act**

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

**1. The *Landlord and Tenant Act*, being chapter 232 of the Revised Statutes of Ontario, 1980, is amended by adding thereto the following section:**

**97a.**—(1) Any provision in a tenancy agreement prohibiting a tenant from keeping a pet in residential premises is void. Provisions  
restricting  
pets void

(2) Subsection (1) does not apply to a tenancy agreement in respect of a unit of a corporation to which the *Condominium Act* applies if the declaration for that corporation prohibits the keeping of pets in units of the corporation. Exception  
R.S.O. 1980,  
c. 84

**2. This Act comes into force on the day it receives Royal Assent.** Commence-  
ment

**3. The short title of this Act is the *Landlord and Tenant Amendment Act, 1989*.** Short title











